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DEBATES

OF THE

CONVENTION,

OF THE

STATE of PENNSYLVANIA,

ON THE

CONSTITUTION,

PROPOSED

FOR THE

GOVERNMENT

OF THE

UNITED STATES.

IN TWO VOLUMES.

VOL. I.

Taken accurately in Short-Hand, by

THOMAS LLOYD.

Oh! may my little bark attendant fail,
Purſue the triumph, and partake the gale.—POPE.

PRINTED BY JOSEPH JAMES,

IN PHILADELPHIA, A. D. M.DCC.LXXXVIII.

I do certify that Thomas Lloyd has, on the twenty ninth day of December, 1787, entered in the Prothonotary's Office of the County of Philadelphia, a Volume intitled "Proceedings and "Debates of the Convention of the "State of Pennsylvania, on the Con= "stitution proposed for the Govern= "ment of the United States of Ameri= "ca, in two Volumes, taken accu= "rately in Short-Hand by Thomas "Lloyd," agreeably to Act of Assem= bly.

J. B. Smith, Proth. Phil. Co.

THE

SPEECHES

OF

Thomas M'Kean & James Wilson,

ESQUIRES;

IN WHICH

THEY HAVE

UNFOLDED

THE

PRINCIPLES

OF

FREE GOVERNMENT,

DEMONSTRATED

THE

Superior Advantages

OF THIS

CONSTITUTION,

AND ANSWERED EVERY

OBJECTION

Hitherto Suggested.

TO THE

SOCIETY

FOR

POLITICAL ENQUIRIES,

IN THE

City of Philadelphia:

THE FOLLOWING

DEBATES

ARE

HUMBLY INSCRIBED,

AS A MARK OF THE

HIGH ESTEEM ENTERTAINED,

BOTH OF THE

ADVANTAGES

OF THAT

NEW INSTITUTION,

AND OF THE

CHARACTERS

WHO COMPOSE IT,

BY THE

SOCIETY'S

MOST OBEDIENT AND

VERY HUMBLE SERVANT,

Thomas Lloyd.

THE CONSTITUTION PROPOSED FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

WE, THE PEOPLE OF THE UNITED STATES, in order to form a more perfect union, eſtabliſh juſtice, inſure domeſtic tranquillity, provide for the common defence, promote the general welfare, and ſecure the bleſſings of liberty to ourſelves and our poſterity, do ordain and eſtabliſh this conſtitution for the United States of America.

ARTICLE I.

Sect. 1. ALL legiſlative powers herein granted ſhall be veſted in a congreſs of the United States, which ſhall conſiſt of a ſenate and houſe of repreſentatives.

Sect. 2. The houſe of repreſentatives ſhall be compoſed of members choſen every ſecond year by the people of the ſeveral ſtates, and the electors in each ſtate ſhall have the qualifications requiſite for electors of the moſt numerous branch of the ſtate legiſlature.

No perſon ſhall be a repreſentative who ſhall not have attained to the age of twenty-five years, and been ſeven years a citizen of the United States, and who ſhall not, when elected, be an inhabitant of that ſtate in which he ſhall be choſen.

Repreſentatives and direct taxes ſhall be apportioned among the ſeveral ſtates which may be included within this union, according to their reſpective numbers, which ſhall be determined by adding to the whole number of free perſons, including thoſe bound to ſervice for a term of years, and excluding Indians not taxed, three-fifths of all other perſons. The actual enumeration ſhall be made within three years after the firſt meeting of the congreſs of the United States, and within every ſubſequent term of ten years, in ſuch manner as they ſhall by law direct. The number of repreſentatives ſhall not exceed one for every thirty thouſand, but each ſtate ſhall have at leaſt one repreſentative; and until ſuch enumeration ſhall be made, the ſtate of New-Hampſhire ſhall be entitled to chuſe three, Maſſachuſetts eight, Rhode-Iſland and Providence Plantations one, Connecticut five, New-York ſix, New-Jerſey four, Pennſylvania eight, Delaware one, Maryland ſix, Virginia ten, North Carolina five, South-Carolina five, and Georgia three.

When vacancies happen in the repreſentation from any ſtate, the executive authority thereof ſhall iſſue writs of election, to fill ſuch vacancies.

The houſe of repreſentatives ſhall chooſe their ſpeaker and other officers; and ſhall have the ſole power of impeachment.

Sect. 3. The ſenate of the United States ſhall be compoſed of two ſenators from each ſtate, choſen by the legiſlature thereof, for ſix years; and each ſenator ſhall have one vote.

Immediately after they ſhall be aſſembled in conſequence of the firſt election, they ſhall be divided as equally as may be into three claſſes. The ſeats of the ſenators of the firſt claſs ſhall be vacated at the expiration of the ſecond year, of the ſecond claſs at the expiration of the fourth year, and of the third claſs at the expiration of the ſixth year, ſo that one third may be choſen every ſecond year; and if vacancies happen by reſignation, or otherwiſe, during the receſs of the legiſlature of any ſtate, the executive thereof may make temporary appointments until the next meeting of the legiſlature, which ſhall then fill ſuch vacancies.

No perſon ſhall be a ſenator who ſhall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who ſhall not, when elected, be an inhabitant of that ſtate for which he ſhall be choſen.

The Vice-Preſident of the United States ſhall be Preſident of the Senate, but ſhall have no vote, unleſs they be equally divided.

The Senate ſhall chuſe their other officers, and alſo a Preſident pro tempore, in the abſence of the Vice-Preſident, or when he ſhall exerciſe the office of Preſident of the United States.

The ſenate ſhall have the ſole power to try all impeachments. When ſitting for that purpoſe, they ſhall be on oath or affirmation. When the preſident of the United States is tried, the chief juſtice ſhall preſide: And no perſon ſhall be convicted without the concurrence of two-thirds of the members preſent.

Judgment in caſes of impeachment ſhall not extend further than to removal from office, and diſqualification to hold and enjoy any office of honor, truſt or profit under the United States; but the party convicted ſhall nevertheleſs be liable and ſubject to indictment, trial, judgment and puniſhment, according to law.

Sect. 4. The times, places and manner of holding elections for ſenators and repreſentatives, ſhall be preſcribed in each ſtate by the legiſlature thereof; but the congreſs may at any time by law make or alter ſuch regulations, except as to the places for chuſing ſenators.

The congreſs ſhall aſſemble at leaſt once in every year, and ſuch meeting ſhall be on the firſt Monday in December, unleſs they ſhall by law appoint a different day.

Sect. 5. Each houſe ſhall be the judge of elections, returns and qualifications of its own members, and a majority of each ſhall conſtitute a quorum to do buſineſs; but a ſmaller number may adjourn from day to day, and may be authoriſed to compel the attendance of abſent members, in ſuch manner, and under ſuch penalties, as each houſe may provide.

Each houſe may determine the rules of its proceedings, puniſh its members for diſorderly behaviour, and with the concurrence of two-thirds, expel a member.

Each houſe ſhall keep a journal of its proceedings, and from time to time publiſh the ſame, excepting ſuch parts as may in their judgment require ſecrecy: and the yeas and nays of the members of either houſe on any queſtion ſhall, at the deſire of one-fifth of thoſe preſent, be entered on the journal.

Neither houſe, during the ſeſſion of congreſs, ſhall, with-

out the conſent of the other, adjourn for more than three days, nor to any other place than that in which the two houſes ſhall be ſitting.

Sect. 6. The ſenators and repreſentatives ſhall receive a compenſation for their ſervices, to be aſcertained by law, and paid out of the treaſury of the United States. They ſhall in all caſes, except treaſon, felony, and breach of the peace, be privileged from arreſt, during the attendance at the ſeſſion of their reſpective houſes, and in going to and returning from the ſame; and for any ſpeech or debate in either houſe, they ſhall not be queſtioned in any other place.

No ſenator or repreſentative ſhall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which ſhall have been created, or the emoluments whereof ſhall have been encreaſed during ſuch time; and no perſon holding any office under the United States, ſhall be a member of either houſe, during his continuance in office.

Sect. 7. All bills for raiſing revenue ſhall originate in the houſe of repreſentatives; but the ſenate may propoſe or concur with amendments as on other bills.

Every bill which ſhall have paſſed the houſe of repreſentatives and the ſenate, ſhall, before it become a law, be preſented to the Preſident of the United States; if he approve he ſhall ſign it, but if not he ſhall return it, with his objections, to that houſe in which it ſhall have originated, who ſhall enter the objections at large on their journal, and proceed to reconſider it. If after ſuch reconſideration, two-thirds of that houſe ſhall agree to paſs the bill, it ſhall be ſent, together with the objections, to the other houſe, by which it ſhall likewiſe be reconſidered, and if approved by two-thirds of that houſe, it ſhall become a law. But in all ſuch caſes, the votes of both houſes ſhall be determined by yeas and nays, and the names of the perſons voting for and againſt the bill ſhall be entered on the journal of each houſe reſpectively. If any bill ſhall not be returned by the preſident within ten days (Sundays excepted) after it ſhall have been preſented to him, the ſame ſhall be a law, in like manner as if he had ſigned it, unleſs the congreſs, by their adjournment, prevent its return, in which caſe it ſhall not be a law.

Every order, reſolution, or vote to which the concurrence of the ſenate and houſe of Repreſentatives may be neceſſary (except on a queſtion of adjournment) ſhall be preſented to the preſident of the United States; and before the ſame

ſhall take effect, ſhall be approved by him, or, being diſapproved by him, ſhall be re-paſſed by two-thirds of the ſenate and houſe of repreſentatives, according to the rules and limitations preſcribed in the caſe of a bill.

Sect. 8. The congreſs ſhall have power

To lay and collect taxes, duties, impoſts, and exciſes, to pay the debts, and provide for the common defence and the general welfare of the United States; but all duties, impoſts and exciſes, ſhall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the ſeveral ſtates, and with the Indian tribes;

To eſtabliſh an uniform rule of naturalization, and uniform laws on the ſubject of bankruptcies throughout the United States;

To coin money, to regulate the value thereof, and of foreign coin, and fix the ſtandard of weights and meaſures;

To provide for the puniſhment of counterfeiting the ſecurities and current coin of the United States;

To eſtabliſh poſt offices and poſt roads;

To promote the progreſs of ſcience and uſeful arts, by ſecuring for limited times to authors and inventors, the excluſive right to their reſpective writings and diſcoveries;

To conſtitute tribunals, inferior to the ſupreme court;

To define and puniſh piracies and felonies, committed on the high ſeas, and offences againſt the law of nations;

To declare war, grant letters of marque and repriſal, and make rules concerning captures on land and water;

To raiſe and ſupport armies, but no appropriation of money to that uſe, ſhall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia, to execute the laws of the union, ſuppreſs inſurrections, and repel invaſions;

To provide for organizing, arming, and diſciplining the militia, and for governing ſuch part of them as may be employed in the ſervice of the United States, reſerving to the ſtates reſpectively, the appointment of the officers, and the authority of training the militia, according to the diſcipline preſcribed by congreſs;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States; and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Sect. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion, or invasion, the public safety may require it.

No bill of attainder, or ex post facto law shall be passed.

No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another: nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Sect. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of

attainder, ex poſt facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No ſtate ſhall, without the conſent of congreſs, lay any impoſt or duties on imports or exports, except what may be abſolutely neceſſary for executing its inſpection laws; and the net produce of all duties and impoſts, laid by any ſtate on imports or exports, ſhall be for the uſe of the treaſury of the United States; and all ſuch laws ſhall be ſubject to the reviſion and controul of the congreſs. No ſtate ſhall, without the conſent of congreſs, lay any duty of tonnage, keep troops, or ſhips of war in time of peace, enter into any agreement or compact with another ſtate, or with a foreign power, or engage in war, unleſs actually invaded, or in ſuch imminent danger as will not admit of delay.

ARTICLE II.

Sect. 1. The executive power ſhall be veſted in a preſident of the United States of America. He ſhall hold his office during the term of four years, and, together with the vice-preſident, choſen for the ſame term, be elected as follows:

Each ſtate ſhall appoint, in ſuch manner as the legiſlature thereof may direct, a number of electors, equal to the whole number of ſenators and repreſentatives to which the ſtate may be entitled in the congreſs: but no ſenator or repreſentative, or perſon holding any office of truſt or profit under the United States, ſhall be appointed an elector.

The electors ſhall meet in their reſpective ſtates, and vote by ballot for two perſons, of whom one at leaſt ſhall not be an inhabitant of the ſame ſtate with themſelves. And they ſhall make a liſt of all the perſons voted for, and of the number of votes for each; which liſt they ſhall ſign and certify, and tranſmit ſealed to the ſeat of government of the United States, directed to the preſident of the ſenate. The preſident of the ſenate ſhall, in the preſence of the ſenate and houſe of repreſentatives, open all the certificates, and the votes ſhall then be counted. The perſon having the greateſt number of votes ſhall be the preſident, if ſuch number be a majority of the whole number of electors appointed; and if there be more than one who have ſuch majority, and have an equal number of votes, then the houſe of repreſentatives ſhall immediately chuſe by ballot one of

them for preſident; and if no perſon have a majority, then from the five higheſt on the liſt the ſaid houſe ſhall in like manner chuſe the preſident. But in chuſing the preſident, the votes ſhall be taken by ſtates, the repreſentation from each ſtate having one vote; a quorum for this purpoſe ſhall conſiſt of a member or members from two thirds of the ſtates, and a majority of the ſtates ſhall be neceſſary to a choice. In every caſe, after the choice of the preſident, the perſon having the greateſt number of votes of the electors ſhall be the vice-preſident. But if there ſhould remain two or more who have equal votes, the ſenate ſhall chuſe from them, by ballot, the vice-preſident.

The congreſs may determine the time of chuſing the electors, and the day on which they ſhall give their votes; which day ſhall be the ſame throughout the United States.

No perſon except a natural born citizen, or a citizen of the United States, at the time of the adoption of this conſtitution, ſhall be eligible to the office of preſident; neither ſhall any perſon be eligible to that office who ſhall not have attained to the age of thirty-five years, and been fourteen years a reſident within the United States.

In caſe of the removal of the preſident from office, or of his death, reſignation, or inability to diſcharge the powers and duties of the ſaid office, the ſame ſhall devolve on the vice-preſident, and the congreſs may by law provide for the caſe of removal, death, reſignation or inability, both of the preſident and vice-preſident, declaring what officer ſhall then act as preſident, and ſuch officer ſhall act accordingly, until the diſability be removed, or a preſident ſhall be elected.

The preſident ſhall, at ſtated times, receive for his ſervices, a compenſation, which ſhall neither be encreaſed nor diminiſhed during the period for which he ſhall have been elected, and he ſhall not receive, within that period, any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he ſhall take the following oath or affirmation:

"I do ſolemnly ſwear (or affirm) that I will faithfully execute the office of preſident of the United States, and will, to the beſt of my ability, preſerve, protect and defend the conſtitution of the United States."

Sect. 2. The preſident ſhall be commander in chief of the army and navy of the United States, and of the militia of the ſeveral ſtates, when called into the actual ſervice

of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any ſubject relating to the duties of their reſpective offices, and he ſhall have power to grant reprieves and pardons for offences againſt the United States, except in caſes of impeachment.

He ſhall have power, by and with the advice and conſent of the ſenate, to make treaties, provided two-thirds of the ſenators preſent concur; and he ſhall nominate, and by and with the advice and conſent of the ſenate, ſhall appoint ambaſſadors, other public miniſters and conſuls, judges of the ſupreme court, and all other officers of the United States, whoſe appointments are not herein otherwiſe provided for, and which ſhall be eſtabliſhed by law. But the congreſs may by law veſt the appointment of ſuch inferior officers, as they think proper, in the preſident alone, in the courts of law, or in the heads of departments.

The preſident ſhall have power to fill up all vacancies that may happen during the receſs of the ſenate, by granting commiſſions which ſhall expire at the end of their next ſeſſion.

Sect. 3. He ſhall from time to time give to the congreſs information of the ſtate of the union, and recommend to their conſideration ſuch meaſures as he ſhall judge neceſſary and expedient; he may, on extraordinary occaſions, convene both houſes, or either of them, and in caſe of diſagreement between them, with reſpect to the time of adjournment, he may adjourn them to ſuch time as he ſhall think proper; he ſhall receive ambaſſadors and other public miniſters; he ſhall take care that the laws be faithfully executed, and ſhall commiſſion all the officers of the United States.

Sect. 4. The preſident, vice-preſident and all civil officers of the United States, ſhall be removed from office on impeachment for, and conviction of, treaſon, bribery, or other high crimes and miſdemeanors.

ARTICLE III.

Sect. 1. The judicial power of the United States, ſhall be veſted in one ſupreme court, and in ſuch inferior courts as the congreſs may from time to time ordain and eſtabliſh. The judges, both of the ſupreme and inferior courts, ſhall hold their offices during good behaviour, and ſhall, at ſtated

times, receive for their ſervices, a compenſation, which ſhall not be diminiſhed during their continuance in office.

Sect. 2. The judicial power ſhall extend to all caſes, in law and equity, ariſing under this conſtitution, the laws of the United States, and treaties made, or which ſhall be made, under their authority; to all caſes affecting ambaſſadors, other public miniſters and conſuls; in all caſes of admiralty and maritime juriſdiction; to controverſies to which the United States ſhall be a party; to controverſies between two or more ſtates, between a ſtate and citizens of another ſtate, between citizens of different ſtates, between citizens of the ſame ſtate claiming lands under grants of different ſtates, and between a ſtate, or the citizens thereof, and foreign ſtates, citizens or ſubjects.

In all caſes affecting ambaſſadors, other public miniſters and conſuls, and thoſe in which a ſtate ſhall be party, the ſupreme court ſhall have original juriſdiction. In all the other caſes before mentioned the ſupreme court ſhall have appellate juriſdiction, both as to law and fact, with ſuch exceptions, and under ſuch regulations, as the congreſs ſhall make.

The trial of all crimes, except in caſe of impeachment, ſhall be by jury; and ſuch trial ſhall be held in the ſtate where the ſaid crimes ſhall have been committed; but when not committed within any ſtate, the trial ſhall be at ſuch place or places as the congreſs may by law have directed.

Sect. 3. Treaſon againſt the United States ſhall conſiſt only in levying war againſt them, or in adhering to their enemies, giving them aid and comfort. No perſon ſhall be convicted of treaſon, unleſs on the teſtimony of two witneſſes to the ſame overt act, or on confeſſion in open court.

The congreſs ſhall have power to declare the puniſhment of treaſon; but no attainder of treaſon ſhall work corruption of blood, or forfeiture, except during the life of the perſon attainted.

ARTICLE IV.

Sect. 1. Full faith and credit ſhall be given in each ſtate to the public acts, records, and judicial proceedings of every other ſtate. And the congreſs may by general laws preſcribe the manner in which ſuch acts, records, and proceedings ſhall be proved, and the effect thereof.

Sect. 2. The citizens of each ſtate ſhall be entitled to all privileges and immunities of citizens in the ſeveral ſtates.

A perſon charged in any ſtate with treaſon, felony, or other crime, who ſhall flee from juſtice, and be found in another ſtate, ſhall, on demand of the executive authority of the ſtate from which he fled be delivered up, to be removed to the ſtate having juriſdiction of the crime.

No perſon held to ſervice or labour in one ſtate, under the laws thereof, eſcaping into another, ſhall, in conſequence of any law or regulation therein, be diſcharged from ſuch ſervice or labour, but ſhall be delivered up on claim of the party to whom ſuch ſervice or labour may be due.

Sect. 3. New ſtates may be admitted by the congreſs into this union; but no new ſtate ſhall be formed or erected within the juriſdiction of any other ſtate; nor any ſtate be formed by the junction of two or more ſtates, or parts of ſtates, without the conſent of the legiſlatures of the ſtates concerned, as well as of the congreſs.

The congreſs ſhall have power to diſpoſe of and make all needful rules and regulations reſpecting the territory or other property belonging to the United States; and nothing in this conſtitution ſhall be ſo conſtrued as to prejudice any claims of the United States, or of any particular ſtate.

Sect. 4. The United States ſhall guarantee to every ſtate in this union, a republican form of government, and ſhall protect each of them againſt invaſion; and on application of the legiſlature, or of the executive (when the legiſlature cannot be convened) againſt domeſtic violence.

ARTICLE V.

The Congreſs, whenever two-thirds of both houſes ſhall deem it neceſſary, ſhall propoſe amendments to this Conſtitution, or, on the application of the legiſlature of two-thirds of the ſeveral ſtates, ſhall call a convention for propoſing amendments, which, in either caſe, ſhall be valid to all intents and purpoſes, as part of this conſtitution, when ratified by the legiſlatures of three-fourths of the ſeveral ſtates, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be propoſed by the Congreſs; Provided, that no amendment which may be made prior to the year one thouſand eight hundred and eight ſhall in any manner affect the firſt and fourth clauſes in the ninth ſection of the firſt article; and that no ſtate, without its conſent, ſhall be deprived of its equal ſuffrage in the ſenate.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this conſtitution, ſhall be as valid againſt the United States, under this conſtitution, as under the confederation.

This conſtitution, and the laws of the United States which ſhall be made in purſuance thereof, and all treaties made, or which ſhall be made, under the authority of the United States, ſhall be the ſupreme law of the land; and the judges in every ſtate ſhall be bound thereby; any thing in the conſtitution or laws of any ſtate to the contrary notwithſtanding.

The ſenators and repreſentatives before-mentioned, and the members of the ſevéral ſtate legiſlatures, and all executive and judicial officers, both of the United States and of the ſeveral ſtates, ſhall be bound by oath or affirmation, to ſupport this conſtitution: but no religious teſt ſhall ever be required as a qualification to any office or public truſt under the United States.

ARTICLE VII.

The ratification of the conventions of nine ſtates, ſhall be ſufficient for the eſtabliſhment of this conſtitution between the ſtates ſo ratifying the ſame.

DONE in CONVENTION, by the unanimous conſent of the ſtates preſent, the ſeventeenth day of September, in the year of our Lord one thouſand ſeven hundred and eighty ſeven, and of the Independence of the United States of America the twelfth. In witneſs whereof we have hereunto ſubſcribed our names.

GEORGE WASHINGTON, Preſident,
and Deputy from Virginia.

NEW-HAMPSHIRE.
John Langdon,
Nicholas Gilman.

MASSACHUSETTS.
Nathaniel Gorham,
Rufus King.

CONNECTICUT.
William Samuel Johnſon,
Roger Sherman.

NEW-YORK.
Alexander Hamilton.

NEW-JERSEY.
William Livingſton,
David Brearley,
William Paterſon,
Jonathan Dayton.

PENNSYLVANIA.
Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzſimons,
Jared Ingerſoll,
James Wilſon,
Gouverneur Morris.

DELAWARE.
George Read,
Gunning Bedford, jun.
John Dickinſon,
Richard Baſſet,
Jacob Broom.

MARYLAND.
James M'Henry,
Daniel of St. Thomas Jenifer,
Daniel Carrol.

VIRGINIA.
John Blair,
James Madiſon, jun.

NORTH-CAROLINA.
William Blount,
Richard Dobbs Spaight,
Hugh Williamſon.

SOUTH-CAROLINA.
John Rutledge,
Charles Cotesworth Pinckney,
Charles Pinckney,
Pierce Butler.

GEORGIA.
William Few,
Abraham Baldwin.

ATTEST. WILLIAM JACKSON, *Secretary.*

In CONVENTION, Monday, September 17th, 1787.

RESOLVED,

THAT the preceding conſtitution be laid before the United States in congreſs aſſembled, and that it is the opinion of this convention, that it ſhould afterwards be ſubmitted to a convention of delegates, choſen in each ſtate by the people thereof, under the recommendation of its legiſlature, for their aſſent and ratification; and that each convention aſſenting to, and ratifying the ſame, ſhould give notice thereof to the United States in congreſs aſſembled.

RESOLVED, That it is the opinion of this convention, that as ſoon as the conventions of nine ſtates ſhall have ratified this conſtitution, the United States in congreſs aſſembled ſhould fix a day on which electors ſhould be appointed by the ſtates which ſhall have ratified the ſame, and a day on which the electors ſhould aſſemble to vote for the preſident, and the time and place for commencing proceedings under this conſtitution. That after ſuch publication the electors ſhould be appointed, and the ſenators and repreſentatives elected: That the electors ſhould meet on the day fixed for the election of the preſident, and ſhould tranſmit their votes certified, ſigned, ſealed and directed, as the conſtitution requires, to the ſecretary of the United States in congreſs aſſembled; that the ſenators and repreſentatives ſhould convene at the time and place aſſigned; that the ſenators ſhould appoint a preſident of the ſenate, for the ſole purpoſe of receiving, opening and counting the votes for preſident; and, that after he ſhould be choſen, the con-

greſs, together with the preſident, ſhould, without delay, proceed to execute this conſtitution.

By the unanimous order of the Convention,

GEORGE WASHINGTON, *Preſident.*
William Jackſon, Secretary.

In CONVENTION, September 17th, 1787.

SIR,

WE have now the honor to ſubmit to the conſideration of the United States in congreſs aſſembled, the conſtitution which has appeared to us the moſt adviſeable.

The friends of our country have long ſeen and deſired, that the power of making war, peace and treaties, that of levying money and regulating commerce, and the correſpondent, executive, and judicial authorities, ſhould be fully and effectually veſted in the general government of the union; but the impropriety of delegating ſuch extenſive truſt to one body of men is evident---Hence reſults the neceſſity of a different organization.

It is obviouſly impracticable in the fœderal government of theſe ſtates, to ſecure all rights of independent ſovereignty to each, and yet provide for the intereſt and ſafety of all---Individuals entering into ſociety, muſt give up a ſhare of liberty to preſerve the reſt. The magnitude of the ſacrifice muſt depend as well on ſituation and circumſtance, as on the object to be obtained. It is at all times difficult to draw with preciſion the line between thoſe rights which muſt be ſurrendered, and thoſe which may be reſerved; and on the preſent occaſion this difficulty was encreaſed by a difference among the ſeveral ſtates as to their ſituation, extent, habits, and particular intereſts.

In all our deliberations on this ſubject, we kept ſteadily in our view, that which appears to us the greateſt intereſt of every true American, the conſolidation of our union, in which is involved our proſperity, felicity, ſafety, perhaps our national exiſtence. This important conſideration, ſeriouſly and deeply impreſſed on our minds, led each ſtate in the convention to be leſs rigid on points of inferior magnitude, than might have been otherwiſe expected; and thus the conſtitution, which we now preſent, is the reſult of a ſpirit of amity, and of that mutual deference and conceſſion

which the peculiarity of our political ſituation rendered indiſpenſible.

That it will meet the full and entire approbation of every ſtate is not perhaps to be expected; but each will doubtleſs conſider, that had her intereſts been alone conſulted, the conſequences might have been particularly diſagreeable or injurious to others; that it is liable to as few exceptions as could reaſonably have been expected, we hope and believe; that it may promote the laſting welfare of that country ſo dear to us all, and ſecure her freedom and happineſs, is our moſt ardent wiſh.---With great reſpect, we have the honor to be, ſir, your excellency's moſt obedient and humble ſervants.

GEORGE WASHINGTON, *Preſident.*

By the unanimous order of the Convention.

His Excellency the Preſident of Congreſs.

DEBATES

OF THE

CONVENTION

OF

PENNSYLVANIA.

TUESDAY, NOVEMBER 20, 1787, P. M.

This being the day recommended by the legiſlature for the meeting of this body, a number of gentlemen delegated thereto, met accordingly at the ſtate-houſe,

And adjourned to three o'clock, P. M. to-morrow.

WEDNESDAY, NOVEMBER 21, 1787, P. M.

Sixty of the gentlemen elected to ſerve in the convention met.

The returns of the elections held for the city of Philadelphia and the ſeveral counties of this ſtate, were read, by which it appears that the following gentlemen were returned as delegates for the convention for the ſaid city and counties reſpectively, viz.

For the City of PHILADELPHIA.
George Latimer,
Benjamin Ruſh,
Hilary Baker,
James Wilſon,
Thomas M'Kean.

For PHILADELPHIA *County.*
William M'Pherſon,
John Hunn,
George Gray,
Samuel Aſhmead,
Enoch Edwards,

For BUCKS *County.*
Henry Wynkoop,
John Barclay,
Thomas Yardley,
Abraham Stout.

For CHESTER *County.*
Thomas Bull,
Anthony Wayne,
William Gibbons,
Richard Downing,
Thomas Cheney,
John Hannum,

For LANCASTER *County.*
Stephen Chambers,
Robert Coleman,
Sebaſtian Graff,
John Hubley,
Jaſper Yeates,
John Whitehill.

For YORK *County.*
Henry Slagle,
Thomas Campbell,
Thomas Hartley,
David Grier,
John Black,
Benjamin Pedan.

For CUMBERLAND *County.*
John Harris,
John Reynolds,
Robert Whitehill,
Jonathan Hoge.

For BERKS *County.*
Nicholas Lutz,
John Ludwig,
Abraham Lincoln,
John Biſhop,
Joſeph Heiſter.

For NORTHAMPTON *County.*
John Arndt,
Stephen Balliott,
Joſeph Horſefield,
David Deſhler.

For BEDFORD *County.*
James Martin,
Joſeph Powell.

For NORTHUMBERLAND *County.*
William Wilſon,
John Boyd.

For WESTMORELAND *County.*
William Findley,
John Baird,
William Todd.

For WASHINGTON *County.*
James Marſhall,
James Edgar,
Thomas Scott,
John Nevill.

For FAYETTE *County.*
Nathaniel Breading,
John Smilie.

For FRANKLIN *County.*
Richard Bard,
John Alliſon.

For MONTGOMERY *County.*
Jonathan Roberts,
John Richards,
Frederick A. Muhlenberg,
James Morris.

For DAUPHIN *County.*
William Brown,
Adam Orth.

For LUZERNE *County.*
Timothy Pickering.

For HUNTINGDON *County.*
Benjamin Elliott.

The convention proceeded to elect a preſident.

The ballots being counted, it appeared that Frederick Auguſtus Muhlenberg, eſq; was duly elected.

An invitation to the preſident and members of the convention from the faculty of the univerſity of Pennſylvania, requeſting their company at a commencement to be held to-morrow, was read:

Agreed to attend in a body, at ten o'clock to-morrow.

Adjourned until nine o'clock, A. M.

THURSDAY, NOVEMBER 22, 1787. A. M.

Convention met, and proceeded to the univerſity-hall, attended commencement, and returned to their chamber.

On motion of Mr. Wayne, ſeconded by Mr. Whitehill,

A committee was appointed to report rules and regulations for conducting the buſineſs of the convention.

The committee conſiſted of Benjamin Ruſh, James Wilſon, George Gray, Anthony Wayne and Robert Whitehill.

Adjourned until half paſt nine o'clock to-morrow, A. M.

FRIDAY, NOVEMBER 23, 1787, A. M.

Convention met purſuant to adjournment, and proceeded to elect a ſecretary.

The ballots being taken, it appeared that James Campbell, eſq; was duly elected.

The committee appointed yeſterday, to bring in rules and regulations, made report; and the ſame being read, was by ſpecial order taken up, read by paragraphs, and agreed to as follows:

I. When the preſident aſſumes the chair, the members ſhall take their ſeats.

II. At the opening of the convention each day, the minutes of the preceding day ſhall be read, and are then in the power of the convention to be corrected; after which any buſineſs addreſſed to the chair may be proceeded to.

III. Every petition, memorial, letter, or other matter of the like kind, read in the convention, ſhall be deemed as lying on the table for further conſideration, unleſs any ſpecial order be moved thereon.

IV. A motion made and ſeconded, ſhall be repeated by the preſident. A motion ſhall be reduced to writing, if the preſident, or any two members, require it. A motion may be withdrawn by the member making it, before any deciſion is had on it.

V. No member ſpeaking ſhall be interrupted, but by a call to order by the preſident, or by a member, through the preſident.

VI. No member to be referred to in debate by name.

VII. The preſident himſelf, or by requeſt, may call to order any member who ſhall tranſgreſs the rules. If a ſecond time, the preſident may refer to him by name. The convention may then examine and cenſure the member's conduct, he being allowed to extenuate or juſtify.

VIII. Every member actually attending the convention ſhall be in his place at the time to which the convention ſtands adjourned, or within half an hour thereof.

IX. The name of him who makes, and the name of him who ſeconds a motion, ſhall be entered on the minutes.

X. No member ſhall ſpeak more than twice to a queſtion, without leave.

XI. Every member of a committee ſhall attend at the call of his chairman.

XII. The yeas and nays may be called and entered on the minutes, when any two members require it.

On motion of Mr. M'Kean, ſeconded by Mr. Smilie,

Ordered, That the doors of the convention be left open during the ſeſſion.

On motion of Mr. M'Kean, ſeconded by Mr. Smilie,

Ordered, That the conſtitution, as propoſed by the late fœderal convention, be read. It was read accordingly.

Adjourned until ten o'clock to-morrow.

SATURDAY, NOVEMBER 24, 1787, A. M.

The convention met purſuant to adjournment.

On motion of Mr. M'Kean, ſeconded by Mr. Hannum,

The conſtitution, as propoſed by the late convention, was read a ſecond time, together with a letter from the ſecretary of congreſs to the preſident of this ſtate.

Adjourned until three o'clock on Monday next.

MONDAY, NOVEMBER 26, 1787, P. M.

The convention met purſuant to adjournment.

MR. M'KEAN.

The ſubject, now, Mr. Preſident, comes fully and fairly before us. Our firſt object muſt be to aſcertain the proper mode of proceeding to obtain a final deciſion. We are without precedent to guide us, yet thoſe forms, obſerved by other public bodies, ſo far as they are eligible, may generally be proper for us to adhere to. So far, therefore, as the rules of the legiſlature of Pennſylvania apply with convenience to our circumſtance, I acquieſce in their adoption.

I now think it neceſſary, ſir, to make you a motion, not that I apprehend it can be determined until a full inveſtigation of the ſubject before us is had. This motion will be, ſir, That this convention do *aſſent to* and *ratify* the conſtitution

agreed to on the 17th of September laſt, by the convention of the United States of America, held at Philadelphia.

Upon this motion being ſeconded, ſir, the conſideration of the conſtitution will be neceſſarily drawn on. Every objection that can be ſuggeſted againſt the work, will be liſtened to with attention, anſwered, and perhaps obviated. And finally, after a full diſcuſſion, the ground will be aſcertained, on which we are to receive or reject the ſyſtem now before you. I do not wiſh this queſtion to be decided to day; tho' perhaps it may be determined this day week. I offer you this for the ſake of form, and ſhall hereafter trouble you with another motion, that may bring the particular parts of this conſtitution before you, for a regular and ſatisfactory inveſtigation.

In this motion, Mr. M'Kean was ſeconded by Mr. Alliſon.

MR. WILSON.

The ſyſtem propoſed, by the late convention, for the government of the United States, is now before you. Of that convention I had the honor to be a member. As I am the only member of that body, who have the honor to be alſo a member of this, it may be expected that I ſhould prepare the way for the deliberations of this aſſembly, by unfolding the difficulties, which the late convention were obliged to encounter; by pointing out the end, which they propoſed to accompliſh, and by tracing the general principles, which they have adopted for the accompliſhment of that end.

To form a good ſyſtem of government for a ſingle city or ſtate, however limited as to territory, or inconſiderable as to numbers, has been thought to require the ſtrongeſt efforts of human genius. With what conſcious diffidence, then, muſt the members of the convention have revolved in their minds the immenſe undertaking, which was before them. Their views could not be confined to a ſmall or a ſingle community, but were expanded to a great number of ſtates; ſeveral of which contain an extent of territory, and reſources of population, equal to thoſe of ſome of the moſt reſpectable kingdoms on the other ſide of the Atlantic. Nor were even theſe the only objects to be comprehended within their deliberations. Numerous ſtates yet unformed: Myriads of the human race, who will inhabit regions hitherto uncultivated, were to be affected by the reſult of their proceedings. It was neceſſary, therefore, to form their calculations on a ſcale commenſurate to a large portion of the globe.

For my own part, I have been often loſt in aſtoniſhment at the vaſtneſs of the proſpect before us. To open the navigation of a ſingle river was lately thought in Europe, an enterprize adequate to imperial glory. But could the commercial ſcenes of the Scheldt be compared with thoſe, that, under a good government, will be exhibited on the Hudſon, the Delaware, the Potowmac, and the numerous other rivers, that water and are intended to enrich the dominions of the United States?

The difficulty of the buſineſs was equal to its magnitude. No ſmall ſhare of wiſdom and addreſs is requiſite to combine and reconcile the jarring intereſts, that prevail, or ſeem to prevail, in a ſingle community. The United States contain already thirteen governments mutually independent. Thoſe governments preſent to the Atlantic a front of fifteen hundred miles in extent. Their ſoil, their climates, their productions, their dimenſions, their numbers are different.—In many inſtances a difference and even an oppoſition ſubſiſts among their intereſts: And a difference and even an oppoſition is imagined to ſubſiſt in many more. An apparent intereſt produces the ſame attachment as a real one; and is often purſued with no leſs perſeverance and vigour. When all theſe circumſtances are ſeen and attentively conſidered, will any member of this honorable body be ſurprized, that ſuch a diverſity of things produced a proportioned diverſity of ſentiment? Will he be ſurprized that ſuch a diverſity of ſentiment rendered a ſpirit of mutual forbearance and conciliation indiſpenſably neceſſary to the ſucceſs of the great work? and will he be ſurprized that mutual conceſſions and ſacrifices were the conſequences of mutual forbearance and conciliation? When the ſprings of oppoſition were ſo numerous and ſtrong, and poured forth their waters in courſes ſo varying, need we be ſurprized that the ſtream formed by their conjunction, was impelled in a direction ſomewhat different from that, which each of them would have taken ſeparately?

I have reaſon to think that a difficulty aroſe in the minds of ſome members of convention from another conſideration—their ideas of the temper and diſpoſition of the people, for whom the conſtitution is propoſed. The citizens of the United States, however different in ſome other reſpects, are well known to agree in one ſtrongly marked feature of their character—a warm and keen ſenſe of freedom and independence. This ſenſe has been heightened by the glorious re-

fult of their late ſtruggle againſt all the efforts of one of the moſt powerful nations of Europe. It was apprehended, I believe, by ſome, that a people ſo highly ſpirited, would ill brook the reſtraints of an efficient government. I confeſs that this conſideration did not influence my conduct. I knew my conſtituents to be high-ſpirited, but I knew them alſo to poſſeſs ſound ſenſe. I knew that, in the event, they would be beſt pleaſed with that ſyſtem of government, which would be beſt promote their freedom and happineſs. I have often revolved this ſubject in my mind. I have ſuppoſed one of my conſtituents to aſk me, why I gave ſuch a vote on a particular queſtion? I have always thought it would be a ſatisfactory anſwer to ſay, becauſe I judged, upon the beſt conſideration I could give, that ſuch a vote was right. I have thought that it would be but a very poor compliment to my conſtituents to ſay—that, in my opinion, ſuch a vote would have been proper, but that I ſuppoſed a contrary one would be more agreeable to thoſe who ſent me to the convention. I could not, even in idea, expoſe myſelf to ſuch a retort, as, upon the laſt anſwer, might have been juſtly made to me. Pray, ſir, what reaſons have you for ſuppoſing that a right vote would diſpleaſe your conſtituents? is this the proper return for the high confidence they have placed in you? If they have given cauſe for ſuch a ſurmiſe, it was by chooſing a repreſentative, who could entertain ſuch an opinion of them. I was under no apprehenſion that the good people of this ſtate would behold, with diſpleaſure, the brightneſs of the rays of delegated power, when it only proved the ſuperior ſplendor of the luminary, of which thoſe rays were only the reflexion.

A very important difficulty aroſe from comparing the extent of the country to be governed, with the kind of government which it would be proper to eſtabliſh in it. It has been an opinion, countenanced by high authority, "that "the natural property of ſmall ſtates is to be governed as a "republic; of middling ones, to be ſubject to a monarch; "and of large empires, to be ſwayed by a deſpotic prince; "and that the conſequence is, that, in order to preſerve the "principles of the eſtabliſhed government, the ſtate muſt be "ſupported in the extent it has acquired; and that the ſpi-"rit of the ſtate will alter in proportion as it extends or con-"tracts its limits." (Monteſquieu, b. 8. c. 20.) This opinion ſeems to be ſupported, rather than contradicted, by the hiſto-

ry of the governments in the old world. Here then the difficulty appeared in full view. On one hand, the United States contain an immenſe extent of territory, and, according to the foregoing opinion, a deſpotic government is beſt adapted to that extent. On the other hand, it was well known, that, however the citizens of the United States might, with pleaſure, ſubmit to the legitimate reſtraints of a republican conſtitution, they would reject, with indignation, the fetters of deſpotiſm. What then was to be done? The idea of a confederate republic preſented itſelf. This kind of conſtitution has been thought to have "all the internal advantages of a republican, together with the external force of a "monarchical government." Mont. b. 9. c. 1. 2. Paley 199. 202.

Its deſcription is, "a convention, by which ſeveral ſtates "agree to become members of a larger one, which they "intend to eſtabliſh. It is a kind of aſſemblage of ſocieties, "that conſtitute a *new one*, capable of encreaſing by means of "farther aſſociation." Monteſquieu, b. 9. c. 1. The *expanding* quality of ſuch a government is peculiarly fitted for the United States, the greateſt part of whoſe territory is yet uncultivated.

But while this form of government enabled us to ſurmount the difficulty laſt mentioned, it conducted us to another, of which I am now to take notice. It left us almoſt without precedent or guide; and conſequently, without the benefit of that inſtruction, which, in many caſes, may be derived from the conſtitution, and hiſtory and experience of other nations. Several aſſociations have frequently been called by the name of confederate ſtates, which have not, in propriety of language, deſerved it. The Swiſs Cantons are connected only by alliances. The United Netherlands are indeed an aſſemblage of ſocieties; but this aſſemblage conſtitutes *no new one*; and, therefore, it does not correſpond with the full definition of a confederate republic. The Germanic body is compoſed of ſuch diſproportioned and diſcordant materials, and its ſtructure is ſo intricate and complex, that little uſeful knowledge can be drawn from it. Ancient hiſtory diſcloſes, and barely diſcloſes to our view, ſome confederate republics—the Achaean league—the Lycian confederacy, and the Amphyctyonic council. But the facts recorded concerning their conſtitutions are ſo few and general, and their hiſtories are ſo unmarked and defective, that no ſatisfactory information can be collected from them concerning many particular circumſtances, from an ac-

curate diſcernment and compariſon, of which alone legitimate and practical inferences can be made from one conſtitution to another. ' Beſides, the ſituation and dimenſions of thoſe confederacies, and the ſtate of ſociety, manners and habits in them, were ſo different from thoſe of the United States, that the moſt correct deſcriptions could have ſupplied but a very ſmall fund of applicable remark. Thus, in forming this ſyſtem, we were deprived of many advantages, which the hiſtory and experience of other ages and other countries would, in other caſes, have afforded us.

Permit me to add, in this place, that the ſcience even of government itſelf, ſeems yet to be almoſt in its ſtate of infancy. Governments, in general, have been the reſult of force, of fraud, and of accident. After a period of ſix thouſand years has elapſed ſince the creation, the United States exhibit to the world, the firſt inſtance, as far as we can learn, of a nation, unattacked by external force, unconvulſed by domeſtic inſurrections, aſſembling voluntarily, deliberating fully, and deciding calmly, concerning that ſyſtem of government, under which they would wiſh that they and their poſterity ſhould live. The ancients, ſo enlightened on other ſubjects, were very uninformed with regard to this. They ſeem ſcarcely to have had any idea of any other kinds of governments, than the three ſimple forms, deſigned by the epithets, monarchical, ariſtocratical and democratical. I know that much and pleaſing ingenuity has been exerted, in modern times, in drawing entertaining parallels between ſome of the ancient conſtitutions and ſome of the mixed governments that have ſince exiſted in Europe. But I much ſuſpect that, on ſtrict examination, the inſtances of reſemblance will be found to be few and weak; to be ſuggeſted by the improvements, which, in ſubſequent ages, have been made in government, and not to be drawn immediately from the ancient conſtitutions themſelves, as they were intended and underſtood by thoſe who framed them. To illuſtrate this, a ſimilar obſervation may be made on another ſubject. Admiring critics have fancied that they have diſcovered in their favourite *Homer* the ſeeds of all the improvements in philoſophy and in the ſciences, made ſince his time. What induces me to be of this opinion is, that *Tacitus*—the profound politician Tacitus—who lived towards the latter end of thoſe ages, which are now denominated ancient, who undoubtedly had ſtudied the conſtitutions of all the ſtates

and kingdoms known before and in his time; and who certainly was qualified in an uncommon degree, for underſtanding the full force and operation of each of them, conſiders, after all he had known and read, a mixed government, compoſed of the three ſimple forms, as a thing rather to be wiſhed than expected: And he thinks, that if ſuch a government could even be inſtituted, its duration could not be long. One thing is very certain, that the doctrine of repreſentation in government was altogether unknown to the ancients. Now the knowledge and practice of this doctrine is, in my opinion, eſſential to every ſyſtem, that can poſſeſs the qualities of freedom, wiſdom and energy.

It is worthy of remark, and the remark may, perhaps, excite ſome ſurpriſe, that repreſentation of the people is not, even at this day, the ſole principle of any government in Europe. Great-Britain boaſts, and ſhe may well boaſt, of the improvement ſhe has made in politics, by the admiſſion of repreſentation: For the improvement is important as far as it goes: but it by no means goes far enough. Is the executive power of Great-Britain founded on repreſentation? This is not pretended. Before the revolution many of the kings claimed to reign by divine right, and others by hereditary right; and even at the revolution, nothing farther was affected or attempted, than the recognition of certain parts of an original contract*, ſuppoſed, at ſome former remote period, to have been made between the king and the people. A contract ſeems to exclude, rather than to imply, delegated power. The judges of Great-Britain are appointed by the crown. The judicial authority, therefore, does not depend upon repreſentation, even in its moſt remote degree. Does repreſentation prevail in the legiſlative department of the Britiſh government? even here it does not predominate; though it may ſerve as a check. The legiſlature conſiſts of three branches, the king, the lords, and the commons. Of theſe only the latter are ſupported by the conſtitution to repreſent the authority of the people. This ſhort analyſis clearly ſhews to what a narrow corner of the Britiſh conſtitution the principle of repreſentation is confined. I believe it does not extend farther, if ſo far in any other government in Europe. For the American ſtates, were reſerved the glory and the happineſs of diffuſing this vital principle throughout the conſtituent parts of government. Repreſentation is the chain of communication between the people, and thoſe, to whom they

* Blackſtone, 233.

have committed the exercise of the powers of government. This chain may consist of one or more links; but in all cases it should be sufficiently strong and discernable.

To be left without guide or precedent was not the only difficulty, in which the convention were involved, by proposing to their constituents a plan of a confederate republic. They found themselves embarrassed with another of peculiar delicacy and importance; I mean that of drawing a proper line between the national government, and the government of the several states. It was easy to discover a proper and satisfactory principle on the subject. Whatever object of government is confined in its operation and effects within the bounds of a particular state, should be considered as belonging to the government of that state; whatever object of government extends in its operation or effects beyond the bounds of a particular state, should be considered as belonging to the government of the United States; but though this principle be sound and satisfactory, its application to particular cases would be accompanied with much difficulty; because in its application, room must be allowed for great discretionary latitude of construction of the principle. In order to lessen, or remove the difficulty, arising from discretionary construction on this subject, an enumeration of particular instances, in which the application of the principle ought to take place, has been attempted with much industry and care. It is only in mathematical science that a line can be described with mathematical precision. But I flatter myself that upon the strictest investigation, the enumeration will be found to be safe and unexceptionable; and accurate too in as great a degree as accuracy can be expected in a subject of this nature. Particulars under this head will be more properly explained, when we descend to the minute view of the enumeration, which is made in the proposed constitution.

After all, it will be necessary, that, on a subject so peculiarly delicate as this, much prudence, much candour, much moderation and much liberality, should be exercised and displayed both by the federal government and by the governments of the several states. It is to be hoped, that those virtues in government will be exercised and displayed, when we consider, that the powers of the federal government and those of the state governments are drawn from sources equally pure. If a difference can be discovered between them, it is in favor of the federal government, because that govern-

ment is founded on a repreſentation of the *whole* union; whereas the government of any particular ſtate is founded only on the repreſentation of a part, inconſiderable when compared with the whole. Is it not more reaſonable to ſuppoſe, that the counſels of the whole will embrace the intereſt of every part, than that the counſels of any part will embrace the intereſts of the whole?

I intend not, ſir, by this deſcription of the difficulties with which the convention were ſurrounded, to magnify their ſkill or their merit in ſurmounting them, or to inſinuate that any predicament in which the convention ſtood, ſhould prevent the cloſeſt and moſt cautious ſcrutiny into the performance, which they have exhibited to their conſtituents and to the world. My intention is of far other and higher aim—to evince by the conflicts and difficulties which muſt ariſe from the many and powerful cauſes which I have enumerated, that it is hopeleſs and impracticable to form a conſtitution, which, in every part, will be acceptable to every citizen, or even to every government in the United States; and that all which can be expected is, to form ſuch a conſtitution, as upon the whole, is the beſt that can poſſibly be obtained. Man and perfection!—a ſtate and perfection!—an aſſemblage of ſtates and perfection!—can we reaſonably expect, however ardently we may wiſh to behold the glorious union?

I can well recollect, though I believe I cannot convey to others the impreſſion, which, on many occaſions, was made by the difficulties which ſurrounded and preſſed the convention. The great undertaking, at ſome times, ſeemed to be at a ſtand, at other times, its motion ſeemed to be retrograde. At the concluſion, however, of our work, many of the members expreſſed their aſtoniſhment at the ſucceſs with which it terminated.

Having enumerated ſome of the difficulties, which the convention were obliged to encounter in the courſe of their proceedings, I ſhall next point out the end, which they propoſed to accompliſh. Our wants, our talents, our affections, our paſſions, all tell us that we were made for a ſtate of ſociety. But a ſtate of ſociety could not be ſupported long or happily without ſome civil reſtraint. It is true, that, in a ſtate of nature, any one individual may act uncontrolled by others; but it is equally true, that in ſuch a ſtate, every other individual may act uncontrolled by him. Amidſt this uni-

verſal independence, the diſſentions and animoſities between interfering members of the ſociety, would be numerous and ungovernable. The conſequence would be, that each member, in ſuch a natural ſtate, would enjoy leſs liberty, and ſuffer more interruption, than he would in a regulated ſociety. Hence the univerſal introduction of governments of ſome kind or other into the ſocial ſtate. The liberty of every member is encreaſed by this introduction; for each gains more by the limitation of the freedom of every other member, than he loſes by the limitation of his own. The reſult is, that civil government is neceſſary to the perfection and happineſs of man. In forming this government, and carrying it into execution, it is *eſſential* that the *intereſt* and *authority* of the whole community ſhould be binding in every part of it.

The foregoing principles and concluſions are generally admitted to be juſt and ſound with regard to the nature and formation of ſingle governments, and the duty of ſubmiſſion to them. In ſome caſes they will apply, with much propriety and force, to ſtates already formed. The advantages and neceſſity of civil government among individuals in ſociety, are not greater or ſtronger than, in ſome ſituations and circumſtances, are the advantages and neceſſity of a fœderal government among ſtates. A natural and a very important queſtion now preſents itſelf---is ſuch the ſituation—are ſuch the circumſtances of the United States? A proper anſwer to this queſtion will unfold ſome very intereſting truths.

The United States may adopt any one of four different ſyſtems. They may become conſolidated into one government, in which the ſeparate exiſtence of the ſtates ſhall be entirely abſorbed. They may reject any plan of union or aſſociation, and act as ſeparate and unconnected ſtates. They may form two or more confederacies. They may unite in one fœderal republic. Which of theſe ſyſtems ought to have been formed by the convention? To ſupport, with vigour, a ſingle government over the whole extent of the United States, would demand a ſyſtem of the moſt unqualified and the moſt unremitted deſpotiſm.—Such a number of ſeparate ſtates, contiguous in ſituation, unconnected and diſunited in government, would be, at one time, the prey of foreign force, foreign influence, and foreign intrigue; at another, the victim of mutual rage, rancour and revenge.

Neither of these systems found advocates in the late convention: I presume they will not find advocates in this. Would it be proper to divide the United States into two or more confederacies? It will not be unadviseable to take a more minute survey of this subject. Some aspects, under which it may be viewed, are far from being, at first sight, uninviting. Two or more confederacies would be each more compact and more manageable than a single one extending over the same territory. By dividing the United States into two or more confederacies, the great collision of interests, apparently or really different and contrary, in the *whole extent* of their dominion, would be broken, and, in a great measure, disappear in the several parts. But these disadvantages, which are discovered from certain points of view, are greatly overbalanced by inconveniences that will appear on a more accurate examination. Animosities, and, perhaps wars, would arise from assigning the extent, the limits, and the rights of the different confederacies. The expences of governing would be multiplied by the number of fœderal governments. The danger resulting from foreign influence and mutual dissentions, would not, perhaps, be less great and alarming in the instance of different confederacies, than in the instance of different though more numerous unassociated states. These observations, and many others that might be made on the subject, will be sufficient to evince, that a division of the United States into a number of separate confederacies, would probably be an unsatisfactory and an unsuccessful experiment. The remaining system which the American states may adopt, is a union of them under one confederate republic. It will not be necessary to employ much time, or many arguments to shew, that this is the most eligible system that can be proposed. By adopting this system, the vigour and decision of a wide-spreading monarchy may be joined to the freedom and beneficence of a contracted republic. The extent of territory, the diversity of climate and soil, the number, and greatness, and connection of lakes and rives, with which the United States are intersected and almost surrounded, all indicate an enlarged government to be fit and advantageous for them. The principles and dispositions of their citizens, indicate that in this government, liberty shall reign triumphant. Such indeed have been the general opinions and wishes entertained since the æra of independence. If those opinions and wishes are as well-founded as they have been general, the late con-

vention were juſtified in propoſing to their conſtituents, *one* confederate republic, as the beſt ſyſtem of a national government for the United States.

In forming this ſyſtem, it was proper to give minute attention to the intereſt of all the parts; but there was a duty of ſtill higher import—to feel and to ſhew a predominating regard to the ſuperior intereſts of the whole. If this great principle had not prevailed, the plan before us would never have made its appearance. The ſame principle that was ſo neceſſary in forming it, is equally neceſſary in our deliberations, whether we ſhould reject or ratify it.

I make theſe obſervations with a deſign to prove and illuſtrate this great and important truth—that in our deciſions on the work of the late convention, we ſhould not limit our views and regards to the ſtate of Pennſylvania. The aim of the convention was to form a ſyſtem of good and efficient government on the more extenſive ſcale of the United States. In this, and in every other inſtance, the work ſhould be judged with the ſame ſpirit, with which it was performed. A principle of duty as well as candour demands this.

We have remarked, that civil government is neceſſary to the perfection of ſociety: We now remark that civil liberty is neceſſary to the perfection of civil government. Civil liberty is natural liberty itſelf, diveſted only of that part, which, placed in the government, produces more good and happineſs to the community, than if it had remained in the individual. Hence it follows, that civil liberty, while it reſigns a part of natural liberty, retains the free and generous exerciſe of all the human faculties, ſo far as it is compatible with the public welfare.

In conſidering and developing the nature and end of the ſyſtem before us, it is neceſſary to mention another kind of liberty, which has not yet, as far as I know, received a name. I ſhall diſtinguiſh it by the appellation of *fœderal liberty*. When a ſingle government is inſtituted, the individuals, of which it is compoſed, ſurrender to it a part of their natural independence, which they before enjoyed as men. When a confederate republic is inſtituted, the commmunities, of which it is compoſed, ſurrender to it a part of their political independence, which they before enjoyed as ſtates. The principles, which directed, in the former caſe, what part of the natural liberty of the man ought to be given up, and what part ought to be retained, will give ſimilar directions in the latter caſe. The ſtates ſhould reſign, to the national go-

vernment, that part, and that part only, of their political liberty, which placed in that government, will produce more good to the whole, than if it had remained in the ſeveral ſtates. While they reſign this part of their political liberty, they retain the free and generous exerciſe of all their other faculties as ſtates, ſo far as it is compatible with the welfare of the general and ſuperintending confederacy.

Since *ſtates* as well as *citizens* are repreſented in the conſtitution before us, and form the objects on which that conſtitution is propoſed to operate, it was neceſſary to notice and define *fœderal* as well as *civil* liberty.

Theſe general reflections have been made, in order to introduce, with more propriety and advantage, a practical illuſtration of the end propoſed to be accompliſhed by the late convention.

It has been too well known—it has been too ſeverely felt—that the preſent confederation is inadequate to the government and to the exigencies of the United States. The great ſtruggle for liberty in this country, ſhould it be unſucceſsful, will probably be the laſt one which ſhe will have for her exiſtence and proſperity, in any part of the globe. And it muſt be confeſſed, that this ſtruggle has, in ſome of the ſtages of its progreſs, been attended with ſymptoms, that foreboded no fortunate iſſue. To the iron hand of tyranny, which was lifted up againſt her, ſhe manifeſted, indeed, an intrepid ſuperiority. She broke in pieces the fetters, which were forged for her, and ſhewed, that ſhe was unaſſailable by force. But ſhe was environed with dangers of another kind, and ſpringing from a very different ſource. While ſhe kept her eye ſteadily fixed on the efforts of oppreſſion, licentiouſneſs was ſecretly undermining the rock on which ſhe ſtood.

Need I call to your remembrance the *contraſted* ſcenes, of which we have been witneſſes? On the glorious concluſion of our conflict with Britain, what high expectations were formed concerning us by others! what high expectations did we form concerning ourſelves! Have thoſe expectations been realized?—no. What has been the cauſe? Did our citizens loſe their perſeverance and magnanimity?—no. Did they become inſenſible of reſentment and indignation at any high-handed attempt, that might have been made to injure or enſlave them?—no. What then has been the cauſe? The truth is, we dreaded danger only on one ſide: This we manfully repelled. But on another ſide, danger, not leſs formidable, but more inſidious, ſtole in upon us; and our unſuſ-

picious tempers were not ſufficiently attentive, either to its approach or to its operations. Thoſe, whom foreign ſtrength could not overpower, have well nigh become the victims of internal anarchy.

If we become a little more particular, we ſhall find that the foregoing repreſentation is by no means exaggerated. When we had baffled all the menaces of foreign power, we neglected to eſtabliſh among ourſelves a government, that would enſure domeſtic vigour and ſtability. What was the conſequence? The commencement of peace was the commencement of every diſgrace and diſtreſs, that could befal a people in a peaceful ſtate. Devoid of national power, we could not prohibit the extravagance of our importations, nor could we derive a revenue from their exceſs. Devoid of national importance, we could not procure, for our exports, a tolerable ſale at foreign markets. Devoid of national credit, we ſaw our public ſecurities melt in the hands of the holders, like ſnow before the ſun. Devoid of national dignity, we could not, in ſome inſtances, perform our treaties, on our parts; and, in other inſtances, we could neither obtain nor compel the performance of them on the part of others. Devoid of national energy, we could not carry into execution our own reſolutions, deciſions or laws.

Shall I become more particular ſtill? The tedious detail would diſguſt me: Nor is it now neceſſary. The years of languor are paſſed---We have felt the diſhonor, with which we have been covered: We have ſeen the deſtruction, with which we have been threatened. We have penetrated to the cauſes of both, and when we have once diſcovered them, we have begun to ſearch for the means of removing them. For the confirmation of theſe remarks, I need not appeal to an enumeration of facts. The proceedings of congreſs, and of the ſeveral ſtates, are replete with them. They all point out the weakneſs and inſufficiency as the cauſe, and an *efficient* general government as the only cure of our political diſtempers.

Under theſe impreſſions, and with theſe views, was the late convention appointed; and under theſe impreſſions, and with theſe views, the late convention met.

We now ſee the great end which they propoſe to accompliſh. It was to frame, for the conſideration of their conſtituents, one fœderal and national conſtitution—a conſtitution, that would produce the advantages of good, and prevent the inconveniences of bad government---a conſtitution, whoſe

beneficence and energy would pervade the whole union; and bind and embrace the intereſts of every part---a conſtitution, that would enſure peace, freedom and happineſs, to the ſtates and people of America.

We are now naturally led to examine the means, by which they propoſed to accompliſh this end. This opens more particularly to our view the important diſcuſſion before us. But previouſly to our entering upon it, it will not be improper to ſtate ſome general and leading principles of government, which will receive particular applications in the courſe of our inveſtigations.

There neceſſarily exiſts in every government a power, from which there is no appeal; and which, for that reaſon, may be termed ſupreme, abſolute and uncontrollable. Where does this power reſide? To this queſtion, writers on different governments will give different anſwers. Sir William Blackſtone will tell you, that in Britain, the power is lodged in the Britiſh parliament, that the parliament may alter the form of the government; and that its power is abſolute without control. The idea of a conſtitution, limiting and ſuperintending the operations of legiſlative authority, ſeems not to have been accurately underſtood in Britain. There are, at leaſt, no traces of practice, conformable to ſuch a principle. The Britiſh conſtitution is juſt what the Britiſh parliament pleaſes. When the parliament transferred legiſlative authority to Henry VIII. the act transferring could not in the ſtrict acceptation of the term, be called unconſtitutional.

To control the power and conduct of the legiſlature by an over-ruling conſtitution, was an improvement in the ſcience and practice of government, reſerved to the American ſtates.

Perhaps ſome politician, who has not conſidered, with ſufficient accuracy, our political ſyſtems, would anſwer, that in our governments, the ſupreme power was veſted in the conſtitutions. This opinion approaches a ſtep nearer to the truth; but does not reach it. The truth is, that, in our governments, the ſupreme, abſolute and uncontrolable power *remains* in the people. As our conſtitutions are ſuperior to our legiſlatures; ſo the people are ſuperior to our conſtitutions. Indeed the ſuperiority, in this laſt inſtance, is much greater; for the people poſſeſs, over our conſtitutions, control in *act*, as well as in right.

The conſequence is, that the people may change the conſtitutions, whenever, and however they pleaſe. This is a right, of which no poſitive inſtitution can ever deprive them.

Theſe important truths, ſir, are far from being merely ſpeculative: We, at this moment, ſpeak and deliberate under their immediate and benign influence. To the operation of theſe truths, we are to aſcribe the ſcene, hitherto unparallelled, which America now exhibits to the world---a gentle, a peaceful, a voluntary and a deliberate tranſition from one conſtitution of government to another. In other parts of the world, the idea of revolutions in government is, by a mournful and an indiſſoluble aſſociation, connected with the idea of wars, and all the calamities attendant on wars. But happy experience teaches us to view ſuch revolutions in a very different light—to conſider them only as progreſſive ſteps in improving the knowledge of government, and increaſing the happineſs of ſociety and mankind.

Oft have I viewed, with ſilent pleaſure and admiration, the force and prevalence, through the United States, that the ſupreme power reſides in the people; and that they never part with it. It may be called the *Panacea* in politics. There can be no diſordet in the community but may here receive a radical cure. If the error be in the legiſlature, it may be corrected by the conſtitution: If in the conſtitution, it may be corrected by the people. There is a remedy, therefore, for every diſtemper in government; if the people are not wanting to themſelves. For a people wanting to themſelves, there is no remedy: From their power, as we have ſeen, there is no appeal: To their error, there is no ſuperior principle of correction.

There are three ſimple ſpecies of government---Monarchy, where the ſupreme power is in a ſingle perſon.---Ariſtocracy, where the ſupreme power is in a ſelect aſſembly, the members of which either fill up, by election, the vacancies in their own body; or ſucceed to their places in it by inheritance, property, or in reſpect of ſome *perſonal* right or qualification---a Republic or Democracy, where the people at large *retain* the ſupreme power, and act either collectively or by repreſentation.

Each of theſe ſpecies of government has its advantages and diſadvantages.

The advantages of a monarchy are ſtrength, diſpatch, ſecrecy, unity of counſel. Its diſadvantages are---Tyranny,

expenſe, ignorance of the ſituation and wants of the people, inſecurity, unneceſſary wars, evils attending elections or ſucceſſions.

The advantages of ariſtocracy are---Wiſdom, ariſing from experience and education. Its diſadvantages are---Diſſentions among themſelves, oppreſſion to the lower orders.

The advantages of democracy are---Liberty, equal, cautious and ſalutary laws, public ſpirit, frugality, peace, opportunities of exciting and producing abilities of the beſt citizens. Its diſadvantages are diſſentions, the delay and diſcloſure of public counſels, the imbecility of public meaſures retarded by the neceſſity of a numerous conſent.

A government may be compoſed of two or more of the ſimple forms above-mentioned. Such is the Britiſh government. It would be an improper government for the United States; becauſe it is inadequate to ſuch an extent of teritory; and becauſe it is ſuited to an eſtabliſhment of different orders of men. A more minute compariſon between ſome parts of the Britiſh conſtitution, and ſome parts of the plan before us, may perhaps find a proper place in a ſubſequent period of our buſineſs.

What is the nature and kind of that government, which has been propoſed for the United States, by the late convention? In its principle, it is purely democratical: But that principle is applied in different forms, in order to obtain the advantages, and exclude the inconveniencies of the ſimple modes of government.

If we take an extended and accurate view of it, we ſhall find the ſtreams of power running in different directions, in different dimenſions, and at different heights, watering, adorning and fertilizing the fields and meadows, thro' which their courſes are led; but if we trace them, we ſhall diſcover, that they all originally flow from one abundant fountain.

In THIS CONSTITUTION, *all authority is derived from the* PEOPLE.

Fit occaſions will hereafter offer for particular remarks on the different parts of the plan. I have now to aſk pardon of the houſe for detaining them ſo long.

WEDNESDAY, OCTOBER 28, 1787, A. M.

Mr. WILSON.

This will be a proper time for making an obſervation or two, on what may be called the preamble to this conſtitu-

tion. I had occaſion, on a former day, to mention that the leading principle in politics, and that which pervades the American conſtitutions, is, that the ſupreme power reſides in the people; this conſtitution, Mr. Preſident, opens with a ſolemn and practical recognition of that principle; "WE, THE PEOPLE OF THE UNITED STATES, in "order to form a more perfect union, eſtabliſh juſtice, &c. "DO ORDAIN AND ESTABLISH this conſtitution, "for the United States of America." It is announced in their name, it receives its political exiſtence from their authority—they ordain and eſtabliſh: What is the neceſſary conſequence?—thoſe who ordain and eſtabliſh, have the power, if they think proper, to repeal and annul.—A proper attention to this principle may, perhaps, give eaſe to the minds of ſome, who have heard much concerning the neceſſity of a bill of rights.

Its eſtabliſhment, I apprehend, has more force, than a volume written on the ſubject—it renders this truth evident, that the people have a right to do what they pleaſe, with regard to the government. I confeſs, I feel a kind of pride, in conſidering the ſtriking difference between the foundation, on which the liberties of this country are declared to ſtand in this conſtitution, and the footing on which the liberties of England are ſaid to be placed. The magna charta of England is an inſtrument of high value to the people of that country. But, Mr. Preſident, from what ſource does that inſtrument derive the liberties of the inhabitants of that kingdom?—Let it ſpeak for itſelf.—The king ſays, "*we* have *given* and *granted* to all archbiſhops, biſhops, "abbots, priors, earls, barons, and to all the freemen of "this our realm, theſe liberties following, to be kept in our "kingdom of England for ever." When this was aſſumed as the leading principle of that government, it was no wonder that the people were anxious to obtain bills of rights, and to take every opportunity of enlarging and ſecuring their liberties. But, here, Sir, the fee-ſimple remains in the people at large, and, by this conſtitution, they do not part with it.

Mr. WILSON.

I am called upon to give a reaſon, why the convention omitted to add a bill of rights to the work before you. I confeſs, Sir, I did think that in point of propriety, the ho

nourable gentleman ought first to have furnished some reasons, to shew such an addition to be necessary; it is natural to prove the affirmative of a proposition; and if he had established the propriety of this addition, he might then have asked, why it was not made.

I cannot say, Mr. President, what were the reasons, of every member of that convention, for not adding a bill of rights; I believe the truth is, that such an idea never entered the mind of many of them. I don't recollect to have heard the subject mentioned, till within about three days of the time of our rising, and even then there was no direct motion offered for any thing of this kind.---I may be mistaken in this; but as far as my memory serves me, I believe it was the case. A proposition to adopt a measure, that would have supposed that we were throwing into the general government, every power not expressly reserved by the people, would have been spurned at, in that house, with the greatest indignation; even in a single government, if the powers of the people rest on the same establishment, as is expressed in this constitution, a bill of rights is by no means a necessary measure. In a government possessed of enumerated powers, such a measure would be not only unnecessary, but preposterous and dangerous: whence comes this notion, that in the United States there is no security without a bill of rights? Have the citizens of South-Carolina no security for their liberties? they have no bill of rights. Are the citizens on the eastern side of the Delaware less free, or less secured in their liberties, than those on the western side? The state of New-Jersey has no bill of rights. ---The state of New-York has no bill of rights.---The states of Connecticut and Rhode-Island have no bills of rights.--- I know not whether I have exactly enumerated the states who have thought it unnecessary to add a bill of rights to their constitutions; but this enumeration, Sir, will serve to shew by experience, as well as principle, that even in single governments, a bill of rights is not an essential or necessary measure.---But in a government, consisting of enumerated powers, such as is proposed for the United States, a bill of rights would not only be unnecessary, but, in my humble judgment, highly imprudent. In all societies, there are many powers and rights, which cannot be particularly enumerated. A bill of rights annexed to a constitution, is an enumeration of the powers reserved. If we attempt an

enumeration, every thing that is not enumerated, is presumed to be given. The consequence is, that an imperfect enumeration would throw all implied power into the scale of the government; and the rights of the people would be rendered incomplete. On the other hand; an imperfect enumeration of the powers of government, reserves all implied power to the people; and, by that means the constitution becomes incomplete; but of the two it is much safer to run the risk on the side of the constitution; for an omission in the enumeration of the powers of government, is neither so dangerous, nor important, as an omission in the enumeration of the rights of the people.

Mr. President, as we are drawn into this subject, I beg leave to pursue its history a little further. The doctrine and practice of declarations of rights have been borrowed from the conduct of the people of England, on some remarkable occasions; but the principles and maxims, on which their government is constituted, are widely different from those of ours. I have already stated the language of magna charta. After repeated confirmations of that instrument, and after violations of it, repeated equally often, the next step taken in this business, was, when the petition of rights was presented to Charles the first.

It concludes in this manner, "all of which they most humbly *pray* to be allowed, as their rights and liberties, according to the laws and statutes of this realm. * One of the most material statutes of the realm was magna charta; so that we find they continue upon the old ground, as to the foundation on which they rest their liberties. It was not till the æra of the revolution, that the two houses assume an higher tone, and "*demand* and insist upon all the premises "as their undoubted rights and liberties." † But when the whole transaction is considered, we shall find that those rights, and liberties, are claimed only on the foundation of an original contract, supposed to have been made at some former period, between the king and the people. ‡

But, in this constitution, the citizens of the United States appear dispensing a part of their original power, in what manner and what proportion they think fit. They never

* 8th Parl. Hist. 150.
† 2 Par. Deb. 261.
‡ 1 Blackstone, 233.

part with the whole; and they retain the right of re-calling what they part with. When, therefore, they poſſeſs, as I have already mentioned, the fee-ſimple of authority, why ſhould they have recourſe to the minute and ſubordinate remedies, which can be neceſſary only to thoſe, who paſs the fee, and reſerve only a rent-charge?

To every ſuggeſtion concerning a bill of rights, the citizens of the United States may always ſay, WE reſerve the right to do what we pleaſe.

Mr. WILSON.

I concur moſt ſincerely, with the honorable gentleman who was laſt up, in one ſentiment, that if our liberties will be inſecure under this ſyſtem of government, it will become our duty not to adopt, but to reject it. On the contrary, if it will ſecure the liberties of the citizens of America, if it will not only ſecure their liberties, but procure them happineſs, it becomes our duty, on the other hand, to aſſent to and ratify it. With a view to conduct us ſafely, and gradually, to the determination of that important queſtion, I ſhall beg leave, to notice ſome of the objections, that have fallen from the hon. gentleman from Cumberland (Whitehill.) But, before I proceed, permit me to make one general remark. Liberty has a formidable enemy on each hand; on one, there is tyranny, on the other licentiouſneſs: in order to guard againſt the latter, proper powers ought to be given to government: in order to guard againſt the former, thoſe powers ought to be properly diſtributed. It has been mentioned, and attempts have been made to eſtabliſh the poſition, that the adoption of this conſtitution will neceſſarily be followed by the annihilation of all the ſtate governments. If this was a neceſſary conſequence, the objection would operate in my mind with exceeding great force. But, ſir, I think the inference is rather unnatural, that a government will produce the annihilation of others, upon the very exiſtence of which its own exiſtence depends. Let us, ſir, examine this conſtitution, and mark its proportions, and arrangements. It is compoſed of three great conſtituent parts, the legiſlative department, the executive department, and the judicial department. The legiſlative department is ſubdivided into two branches, the houſe of repreſentatives and the ſenate. Can there be a houſe of repreſentatives, in the general go-

vernment, after the ſtate governments are annihilated?---- Care is taken to expreſs the character of the electors in ſuch a manner, that even the popular branch of the general government, cannot exiſt, unleſs the governments of the ſtates continue in exiſtence.

How do I prove this? By the regulation that is made, concerning the important ſubject of giving ſuffrage. Article the firſt, ſection ſecond, " and the electors in each ſtate, ſhall have the qualifications for electors of the moſt numerous branch of the ſtate legiſlature." Now, Sir, in order to know who are qualified to be electors of the houſe of repreſentatives, we are to enquire, who are qualified to be electors of the legiſlature of each ſtate; if there be no legiſlatures in the ſtates, there can be no electors of them: if there be no ſuch electors, there is a criterion to know who are qualified to elect members of the houſe of repreſentatives. By this ſhort, plain deduction, the exiſtence of ſtate legiſlatures, is proved to be eſſential to the exiſtence of the general government.

Let us proceed now to the ſecond branch of the legiſlative department. In the ſyſtem before you, the ſenators, Sir, thoſe tyrants that are to devour the legiſlatures of the ſtates, are to be choſen by the ſtate legiſlatures themſelves. Need any thing more be ſaid on this ſubject? So far is the principle of each ſtate's retaining the power of ſelf-preſervation, from being weakened or endangered by the general government, that the convention went further, perhaps, than was ſtrictly proper, in order to ſecure it; for in this ſecond branch of the legiſlature, each ſtate, without regard to its importance, is entitled to an equal vote. And in the articles, reſpecting amendments of this conſtitution, it is provided " that no " ſtate, without its conſent, ſhall be deprived of its equal " ſuffrage in the ſenate."

Does it appear then, that proviſion for the continuance of the ſtate governments was neglected, in framing this conſtitution? On the contrary, it was a favorite object in the convention to ſecure them.

The preſident of the United States, is to be choſen by electors appointed in the different ſtates, in ſuch manner as the legiſlature ſhall direct. Unleſs there be legiſlatures to appoint electors, the preſident cannot be choſen; the idea, therefore, of the exiſting government of the ſtates, is preſuppoſed in the very mode of conſtituting the legiſlative and

the executive departments of the general government.--- The ſame principle will apply to the judicial department. The judges are to be nominated by the preſident, and appointed by him, with the advice and conſent of the ſenate. This ſhews, that the judges cannot exiſt without the preſident and ſenate. I have already ſhewn that the preſident and ſenate cannot exiſt without the exiſtence of the ſtate legiſlatures. Have I miſtated any thing? Is not the evidence indiſputable, that the ſtate governments will be preſerved, or that the general government muſt tumble amidſt their ruins? It is true, indeed, Sir, although it preſuppoſes the exiſtence of ſtate governments, yet this conſtitution does not ſuppoſe them to be the ſole power to be reſpected.

In the articles of confederation the people are unknown, but in this plan they are repreſented: and in one of the branches of the legiſlature they are repreſented, immediately, by perſons of their own choice.

I hope theſe obſervations, on the nature and formation of this ſyſtem, are ſeen in their full force; many of them were ſo ſeen by ſome gentlemen of the late convention. After all this, could it have been expected, that aſſertions, ſuch as have been hazarded on this floor, would have been made, "that it was the buſineſs of their deliberations, to deſtroy "the ſtate governments, that they employed four months "to accompliſh this object, and that ſuch was their intentions?" That honorable gentleman may be better qualified to judge of their intentions than themſelves. I know my own, and, as to thoſe of the other members I believe, that they have been very improperly and unwarrantably repreſented; intended to deſtroy! where did *he* obtain his information? Let the tree be judged of by its fruit.

Mr. Preſident, the only proof that is attempted to be drawn from the work itſelf, is that which has been urged from the fourth ſection of the firſt article. I will read it, "The times, places and manner of holding elections, for ſenators and repreſentatives, ſhall be preſcribed in each ſtate by the legiſlature thereof; but the congreſs may at any time, by law make or alter ſuch regulations, except as to the places of chuſing ſenators."

And is this a proof, that it was intended to carry on this government, after the ſtate government ſhould be diſſolved and abrogated? This clauſe is not only a proper, but a neceſſary one. I have already ſhewn what pains have been taken in

the convention to ſecure the preſervation of the ſtate governments. I hope, Sir, that it was no crime, to ſow the ſeed of ſelf-preſervation in the fœderal government; without this clauſe it would not poſſeſs ſelf-preſerving power. By this clauſe the times, places and manner of holding elections, ſhall be preſcribed in each ſtate, by the legiſlature thereof. I think it highly proper that the fœderal government ſhould throw the exerciſe of this power into the hands of the ſtate legiſlatures; but not that it ſhould be placed there entirely without control.

If the congreſs had it not in their power to make regulations, what might be the conſequences? Some ſtates might make no regulations at all on the ſubject. And ſhall the exiſtence of the houſe of repreſentatives, the immediate repreſentation of the people in congreſs, depend upon the will and pleaſure of the ſtate governments? Another thing may poſſibly happen, I don't ſay it will; but we were obliged to guard even againſt poſſibilities, as well as probabilities. A legiſlature may be willing to make the neceſſary regulations, yet the minority of that legiſlature may, by abſenting themſelves, break up the houſe, and prevent the execution of the intention of the majority. I have ſuppoſed the caſe, that ſome ſtate governments may make no regulations at all; it is poſſible alſo that they may make improper regulations. I have heard it ſurmiſed by the opponents of this conſtitution, that the congreſs may order the election for Pennſylvania to be held at Pittſburg, and thence conclude, that it would be improper for them to have the exerciſe of the power; but ſuppoſe on the other hand, that the aſſembly ſhould order an election to be held at Pittſburg, ought not the general government to have the power to alter ſuch improper election of one of its own conſtituent parts? But there is an additional reaſon ſtill, that ſhews the neceſſity of this proviſionary clauſe. The members of the ſenate are elected by the ſtate legiſlatures. If thoſe legiſlatures poſſeſſed, uncontrolled, the power of preſcribing the times, places and manner of electing members of the houſe of repreſentatives, the members of one branch of the general legiſlature would be the tenants at will of the electors of the other branch; and the general government would lie proſtrate at the mercy of the legiſlatures of the ſeveral ſtates.

I will aſk now, is the inference fairly drawn, that the ge-

neral government was intended to ſwallow up the ſtate governments? or was it calculated to anſwer ſuch end? or do its framers deſerve ſuch cenſure from honorable gentlemen? We find on examining this paragraph, that it contains nothing more, than the maxims of ſelf-preſervation, ſo abundantly ſecured by this conſtitution to the individual ſtates. Several other objections have been mentioned; I will not, at this time, enter into a diſcuſſion of them, though I may hereafter take notice of ſuch as have any ſhew of weight. But I thought it neceſſary to offer at this time, the obſervations I have made; becauſe I conſider this as an important ſubject; and think the objection would be a ſtrong one, if it was well founded.

FRIDAY, NOVEMBER 30, 1787, A. M

Mr. WILSON.

It is objected that the number of members in the houſe of repreſentatives is too ſmall. This is a ſubject ſomewhat embarraſſing, and the convention who framed the article, felt the embarraſſment. Take either ſide of the queſtion, and you are neceſſarily led into difficulties. A large repreſentation, ſir, draws along with it a great expence. We all know that expence is offered as an objection to this ſyſtem of government, and certainly had the repreſentation been greater, the clamour would have been on that ſide, and perhaps, with ſome degree of juſtice. But the expence is not the ſole objection; it is the opinion of ſome writers, that a deliberative body ought not to conſiſt of more than one hundred members. I think, however, that there might be ſafety and propriety in going beyond that number; but certainly there is ſome number ſo large, that it would be improper to encreaſe them beyond it. The Britiſh houſe of commons conſiſts of upwards of five hundred. The ſenate of Rome conſiſted, it is ſaid, at ſome times, of one thouſand members. This laſt number is certainly too great.

The convention endeavoured to ſteer a middle courſe, and when we conſider the ſcale on which they formed their calculation, there are ſtrong reaſons, why the repreſentation ſhould not have been larger. On the ratio that they have fixed, of one for every thirty-thouſand, and according to

the generally received opinion of the increaſe of population throughout the United States, the preſent number of their inhabitants will be doubled in twenty five years, and according to that progreſſive proportion, and the ratio of one member for thirty thouſand inhabitants, the houſe of repreſentatives will, within a ſingle century, conſiſt of more than ſix hundred members ; permit me to add a further obſervation on the numbers—that a large number is not ſo neceſſary in this caſe, as in the caſes of ſtate legiſlatures. In them there ought to be a repreſentation ſufficient to declare the ſituation of every county, town and diſtrict ; and if of every individual, ſo much the better, becauſe their legiſlative powers extend to the particular intereſt and convenience of each, but in the general government, its objects are enumerated, and are not confined in their cauſes or operations, to a county, or even to a ſingle ſtate.—No one power is of ſuch a nature, as to require the minute knowledge of ſituations and circumſtances neceſſary in ſtate governments, poſſeſſed of general legiſlative authority ; theſe were the reaſons, ſir, that I believe had influence on the convention to agree to the number of thirty thouſand, and when the inconveniencies and conveniencies on both ſides are compared, it would be difficult to ſay what would be a number more unexceptionable.

SATURDAY, DECEMBER 1, 1787, A. M.

Mr. WILSON.

The ſecret is now diſcloſed, and it is diſcovered to be a dread, that the boaſted ſtate ſovereignties, will under this ſyſtem be diſrobed of part of their power. Before I go into the examination of this point, let me aſk one important queſtion---Upon what principle is it contended that the ſovereign power reſides in the ſtate governments ? the honorable gentleman has ſaid truly, that there can be no ſubordinate ſovereignty. Now if there can not, my poſition is, that the ſovereignty reſides in the people, they have not parted with it ; they have only diſpenſed ſuch portions of power as were conceived neceſſary for the public welfare. This conſtitution ſtands upon this broad principle. I know very well, ſir, that the people have hitherto been ſhut out of the fœderal government, but it is not meant that they ſhould any longer be diſpoſſeſſed of their rights. In order to recog-

nize this leading principle, the propoſed ſyſtem ſets out with a declaration, that its exiſtence depends upon the ſupreme authority of the people alone. We have heard much about a conſolidated government.---I wiſh the honorable gentleman would condeſcend to give us a definition of what he meant by it. I think this the more neceſſary, becauſe I apprehend that the term, in the numerous times it has been uſed, has not always been uſed in the ſame ſenſe. It may be ſaid and I believe it has been ſaid, that a conſolidated government is ſuch, as will abſorb and deſtroy the governments of the ſeveral ſtates. If it is taken in this view, the plan before us is not a conſolidated government, as I ſhewed on a former day, and may, if neceſſary, ſhew further on ſome future occaſion.—On the other hand, if it is meant, that the general government will take from the ſtate governments their power in ſome particulars, it is confeſſed and evident, that this will be its operation and effect.

When the principle is once ſettled, that the people are the ſource of authority, the conſequence is, that they may take from the ſubordinate governments powers with which they have hitherto truſted them, and place thoſe powers in the general government, if it is thought that there they will be productive of more good.—They can diſtribute one portion of power, to the more contracted circle, called ſtate governments: they can alſo furniſh another proportion to the government of the United States. Who will undertake to ſay, as a ſtate officer, that the people may not give to the general government what powers, and for what purpoſes they pleaſe? how comes it, ſir, that theſe ſtate governments dictate to their ſuperiors? to the majeſty of the people? When I ſay the majeſty of the people, I mean the thing and not a mere compliment to them. The honorable gentleman went a ſtep further and ſaid, that the ſtate governments were kept out of this government altogether. The truth is, and it is a leading principle in this ſyſtem, that not the ſtates only, but the people alſo ſhall be here repreſented. And if this is a crime, I confeſs the general government is chargeable with it; but I have no idea, that a ſafe ſyſtem of power, in the government, ſufficient to manage the general intereſt of the United States, could be drawn from any other ſource, or reſted in any other authority than that of the people at large, and I conſider this authority as the rock on which this ſtructure will ſtand.—If this principle is unfounded,

the ſyſtem muſt fall. If honorable gentlemen, before they undertake to oppoſe this principle, will ſhew that the people have parted with their power to the ſtate governments, then I confeſs I cannot ſupport this conſtitution. It is aſked can there be two taxing powers? Will the people ſubmit to two taxing powers? I think they will, when the taxes are required for the public welfare, by perſons appointed immediately by their fellow citizens.

But I believe this doctrine is a very diſagreeable one to ſome of the ſtate governments. All the objects that will furniſh an encreaſe of revenue, are eagerly ſeiſed by them; perhaps this will lead to the reaſon why a ſtate government, when ſhe was obliged to pay only about an eighth part of the loan-office certificates, ſhould voluntarily undertake the payment of about one-third part of them. This power of taxation will be regulated in the general government upon equitable principles. No ſtate can have more than her juſt proportion to diſcharge—no longer will government be obliged to aſſign her funds for the payment of debts ſhe does not owe. Another objection has been taken, that the judicial powers are coextenſive with the objects of the national government. So far as I can underſtand the idea of magiſtracy in every government, this ſeems to be a proper arrangement; the judicial department is conſidered as a part of the executive authority of government. Now, I have no idea that the authority ſhould be reſtrained, ſo as not to be able to perform its functions with full effect. I would not have the legiſlature ſit to make laws, which cannot be executed. It is not meant here that the laws ſhall be a dead letter; it is meant, that they ſhall be carefully and duly conſidered, before they are enacted; and that then they ſhall be honeſtly and faithfully executed. This obſervation naturally leads to a more particular conſideration of the government before us. In order, ſir, to give permanency, ſtability and ſecurity to any government, I conceive it of eſſential importance, that its legiſlature ſhould be reſtrained; that there ſhould not only be, what we call a *paſſive*, but an *active* power over it; for of all kinds of deſpotiſm, this is the moſt dreadful, and the moſt difficult to be corrected. With how much contempt have we ſeen the authority of the people, treated by the legiſlature of this ſtate—and how often have we ſeen it making laws in one ſeſſion, that have been repealed the next, either on account of the fluctuation of party, or their own impropriety.

This could not have been the caſe in a compound legiſlature; it is therefore proper to have efficient reſtraints upon the legiſlative body. Theſe reſtraints ariſe from different ſources: I will mention ſome of them. In this conſtitution they will be produced in a very conſiderable degree, by a diviſion of the power in the legiſlative body itſelf. Under this ſyſtem, they may ariſe likewiſe from the interference of thoſe officers, who will be introduced into the executive and judicial departments. They may ſpring alſo from another ſource; the election by the people; and finally, under this conſtitution, they may proceed from the great and laſt reſort—from the PEOPLE themſelves. I ſay, under this conſtitution, the legiſlature may be reſtrained, and kept within its preſcribed bounds, by the interpoſition of the judicial department. This I hope, ſir, to explain clearly and ſatisfactorily. I had occaſion, on a former day, to ſtate that the power of the conſtitution was paramount to the power of the legiſlature, acting under that conſtitution. For it is poſſible that the legiſlature, when acting in that capacity, may tranſgreſs the bounds aſſigned to it, and an act may paſs, in the uſual *mode*, notwithſtanding that trangreſſion; but when it comes to be diſcuſſed before the judges—when they conſider its principles, and find it to be incompatible with the ſuperior power of the conſtitution, it is their duty to pronounce it void; and judges independent, and not obliged to look to every ſeſſion, for a continuance of their ſalaries, will behave with intrepidity, and refuſe to the act the ſanction of judicial authority. In the ſame manner, the preſident of the United States could ſhield himſelf, and refuſe to carry into effect, an act that violates the conſtitution.

In order to ſecure the preſident from any dependence upon the legiſlature, as to his ſalary, it is provided, that he ſhall, at ſtated times, receive for his ſervices, a compenſation that ſhall neither be encreaſed nor diminiſhed, during the period for which he ſhall have been elected, and that he ſhall not receive, within that period, any other emolument from the United States, or any of them.

To ſecure to the judges this independence, it is ordered that they ſhall receive for their ſervices, a compenſation which ſhall not be diminiſhed during their continuance in office. The congreſs may be reſtrained, by the election of its conſtituent parts. If a legiſlature ſhall make a law contrary to the conſtitution, or oppreſſive to the people, they have it in

their power, every ſecond year, in one branch, and every ſixth year in the other, to diſplace the men, who act thus inconſiſtent with their duty; and if this is not ſufficient, they have ſtill a further power; they may aſſume into their own hands, the alteration of the conſtitution itſelf—they may revoke the leaſe, when the conditions are broken by the tenant. But the moſt uſeful reſtraint upon the legiſlature, becauſe it operates conſtantly, ariſes from the diviſion of its power, among two branches, and from the qualified negative of the preſident upon both. As this government is formed, there are two ſources from which the repreſentation is drawn, though they both ultimately flow from the people. *States* now exiſt and others will come into exiſtence; it was thought proper that they ſhould be repreſented in the general government. But, gentlemen will pleaſe to remember, this conſtitution was not framed merely for the ſtates; it was framed for the PEOPLE alſo; and the popular branch of the congreſs, will be the objects of their immediate choice.

The two branches will ſerve as checks upon each other; they have the ſame legiſlative authorities, except in one inſtance. Money bills muſt originate in the houſe of repreſentatives. The ſenate can paſs no law without the concurrence of the houſe of repreſentatives; nor can the houſe of repreſentatives, without the concurrence of the ſenate. I believe, ſir, that the obſervation which I am now going to make, will apply to mankind in every ſituation; they will act with more caution, and perhaps more integrity, if their proceedings are to be under the inſpection and control of another, than when they are not. From this principle, the proceedings of congreſs will be conducted with a degree of circumſpection not common in ſingle bodies, where nothing more is neceſſary to be done, than to carry the buſineſs through amongſt themſelves, whether it be right or wrong. In compound legiſlatures, every object muſt be ſubmitted to a diſtinct body, not influenced by the arguments, or warped by the prejudices of the other. And, I believe, that the perſons who will form the congreſs, will be cautious in running the riſk, *with a bare majority*, of having the negative of the preſident put on their proceedings. As there will be more circumſpection in forming the laws, ſo there will be more ſtability in the laws when made. Indeed one is the conſequence of the other; for what has been well conſidered, and founded in good ſenſe, will, in practice, be uſeful and ſalutary, and of conſequence will not be liable to be ſoon repealed. Though two bodies

may not poſſeſs more wiſdom or patriotiſm, than what may be found in a ſingle body, yet they will neceſſarily introduce a greater degree of preciſion. An indigeſted and inaccurate code of laws, is one of the moſt dangerous things that can be introduded into any government. The force of this obſervation is well known by every gentleman that has attended to the laws of this ſtate. This, ſir, is a very important advantage, that will ariſe from this diviſion of the legiſlative authority.

I will proceed now to take ſome notice of a ſtill further reſtraint upon the legiſlature---I mean the qualified negative of the preſident. I think this will be attended with very important advantages, for the ſecurity and happineſs of the people of the United States. The preſident, ſir, will not be a ſtranger to our country, to our laws, or to our wiſhes. He will, under this conſtitution, be placed in office as the preſident of the whole union, and will be choſen in ſuch a manner that he may be juſtly ſtiled THE MAN OF THE PEOPLE; being elected by the different parts of the United States, he will conſider himſelf as not particularly intereſted for any one of them, but will watch over the whole with paternal care and affection. This will be the natural conduct to recommend himſelf to thoſe who placed him in that high chair, and I conſider it as a very important advantage, that ſuch a man muſt have every law preſented to him, before it can become binding upon the United States. He will have before him the fulleſt information of our ſituation, he will avail himſelf not only of records and official communications, foreign and domeſtic, but he will have alſo the advice of the executive officers in the different departments of the general government.

If in conſequence of this information and advice, he exerciſe the authority given to him, the effect will not be loſt—he returns his objections, together with the bill, and unleſs two thirds of both branches of the legiſlature are *now* found to approve it, it does not become a law. But even if his objections do not prevent its paſſing into a law, they will not be uſeleſs; they will be kept together with the law, and, in the archives of congreſs, will be valuable and practical materials, to form the minds of poſterity for legiſlation—if it is found that the law operates inconveniently, or oppreſſively, the people may diſcover in the preſident's objections, the ſource of that inconvenience or oppreſſion. Further, ſir,

when objections ſhall have been made, it is provided, in order to ſecure the greateſt degree of caution and reponſibility, that the votes of both houſes ſhall be determined by yeas and nays, and the names of the perſons, voting for and againſt the bill, ſhall be entered in the journal of each houſe reſpectively. Thus much I have thought proper to ſay, with regard to the diſtribution of the legiſlative authority, and the reſtraints under which it will be exerciſed.

The gentleman in oppoſition ſtrongly inſiſts, that the general clauſe at the end of the eighth ſection, gives to congreſs a power of legiſlating generally; but I cannot conceive by what means he will render the word ſuſceptible of that expanſion. Can the words, the congreſs ſhall have power to make all laws, which ſhall be neceſſary and proper to carry into execution the foregoing powers, be capable of giving them general legiſlative power?—I hope that it is not meant to give to congreſs merely an illuſive ſhew of authority, to deceive themſelves or conſtituents any longer. On the contrary, I truſt it is meant, that they ſhall have the power of carrying into effect the laws, which they ſhall make under the powers veſted in them by this conſtitution. In anſwer to the gentleman from Fayette (Mr. Smilie,) on the ſubject of the preſs, I beg leave to make an obſervation; it is very true, ſir, that this conſtitution ſays nothing with regard to that ſubject, nor was it neceſſary, becauſe it will be found, that there is given to the general government no power whatſoever concerning it; and no law in purſuance of the conſtitution, can poſſibly be enacted, to deſtroy that liberty.

I heard the honorable gentleman make this general aſſertion, that the Congreſs was certainly veſted with power to make ſuch a law, but I would be glad to know by what part of this conſtitution ſuch a power is given? Until that is done, I ſhall not enter into a minute inveſtigation of the matter, but ſhall at preſent ſatisfy myſelf with giving an anſwer to a queſtion that has been put. It has been aſked, if a law ſhould be made to puniſh libels, and the judges ſhould proceed under that law, what chance would the printer have of an acquittal? And it has been ſaid he would drop into a den of devouring monſters.

I preſume it was not in the view of the honorable gentleman to ſay there is no ſuch thing as a libel, or that the writers of ſuch ought not to be puniſhed. The idea of the liberty of the preſs, is not carried ſo far as this in any country—

what is meant by the liberty of the preſs is, that there ſhould be no antecedent reſtraint upon it; but that every author is reſponſible when he attacks the ſecurity or welfare of the government, or the ſafety, character and property of the individual.

With regard to attacks upon the public, the mode of proceeding is by a proſecution. Now if a libel is written, it muſt be within ſome one of the United States, or the diſtrict of congreſs. With regard to that diſtrict, I hope it will take care to preſerve this as well as the other rights of freemen; for whatever diſtrict congreſs may chuſe, the ceſſion of it cannot be completed without the conſent of its inhabitants. Now ſir, if this libel is to be tried, it muſt be tried where the offence was committed; for under this conſtitution, as declared in the ſecond ſection of the third article, the trial muſt be held in the ſtate; thereforeon this occaſion it muſt be tried where itwas publiſhed, if the indictment is for publiſhing; and it muſt be tried likewiſe by a jury of that ſtate. Now I would aſk, is the perſon proſecuted in a worſe ſituation under the general government, even if it had the power to make laws on this ſubject, than he is at preſent under the ſtate government? It is true, there is no particular regulation made, to have the jury come from the body of the county in which the offence was committed; but there are ſome ſtates in which this mode of collecting juries is contrary to their eſtabliſhed cuſtom, and gentlemen ought to conſider that this conſtitution was not meant merely for Pennſylvania. In ſome ſtates the juries are not taken from a ſingle county. In Virginia, the ſheriff, I believe, is not confined, even to the inhabitants of the ſtate, but is at liberty to take any man he pleaſes, and put him on the jury. In Maryland I think a ſett of jurors ſerve for the whole Weſtern Shore, and another for the Eaſtern Shore.

I beg to make one remark on what one gentleman has ſaid, with reſpect to amendments being propoſed to this conſtitution. To whom are the cconvention to make report of ſuch amendments? He tells you, to the preſent congreſs. I do not wiſh to report to that body, the repreſentatives only of the ſtate governments; they may not be diſpoſed to admit the people into a participation of their power. It has alſo been ſuppoſed, that a wonderful unanimity ſubſiſts among thoſe who are enemies to the propoſed ſyſtem. On this point I alſo differ from the gentleman who made the

obſervation. I have taken every pains in my power, and read every publication I could meet with, in order to gain information; and as far as I have been able to judge, the oppoſition is inconſiderable and inconſiſtent. Inſtead of agreeing in their objections, thoſe who make them, bring forward ſuch as are diametrically oppoſite. On one hand, it is ſaid, that the repreſentation in congreſs is too ſmall; on the other, it is ſaid to be too numerous. Some think the authority of the ſenate too great; ſome that of the houſe of repreſentatives; and ſome that of both. Others draw their fears from the powers of the preſident; and like the iron race of Cadmus, theſe opponents riſe, only to deſtroy each other.

MONDAY, DECEMBER 3, 1787, A. M.

MR. WILSON.

Take detached parts of any ſyſtem whatſoever, in the manner theſe gentlemen have hitherto taken this conſtitution, and you will make it abſurd and inconſiſtent with itſelf. I do not confine this obſervation to human performances alone; it will apply to divine writings. An anecdote, which I have heard, exemplifies this obſervation: When Sternhold and Hopkin's verſion of the pſalms was uſually ſung in churches, a line was firſt read by the clerk, and then ſung by the congregation. A ſailor had ſtepped in, and heard the clerk read this line:

"The Lord will come, and he will not—"

The ſailor ſtared; and when the clerk read the next line,

"Keep ſilence; but ſpeak out,"

the ſailor left the church, thinking the people were not in their ſenſes.

This ſtory may convey an idea of the treatment of the plan before you; for although it contains ſound ſenſe, when connected, yet by the detached manner of conſidering it, it appears highly abſurd.

MR. WILSON.

Much fault has been found with the mode of expreſſion, uſed in the firſt clauſe of the ninth ſection of the firſt article. I believe I can aſſign a reaſon, why that mode of expreſſion was uſed, and why the term ſlave was not directly

admitted in this conſtitution ;—and as to the manner of laying taxes, this is not the firſt time that the ſubject has come into the view of the United States, and of the legiſlatures of the ſeveral ſtates. The gentleman (Mr. Findley) will recollect, that in the preſent congreſs, the quota of the fœderal debt, and general expences, was to be in proportion to the value of LAND, and other enumerated property, within the ſtates. After trying this for a number of years, it was found on all hands, to be a mode that could not be carried into execution. Congreſs were ſatisfied of this, and in the year 1783, recommended, in conformity with the powers they poſſeſs'd under the articles of confederation, that the quota ſhould be according to the number of free people, including thoſe bound to ſervitude, and excluding Indians not taxed. Theſe were the very expreſſions uſed in 1783, and the fate of this recommendation was ſimilar to all their other reſolutions. It was not carried into effect, but it was adopted by no fewer than eleven, out of thirteen ſtates ; and it can not but be matter of ſurpriſe, to hear gentlemen, who agreed to this very mode of expreſſion at that time, come forward and ſtate it as an objection on the preſent occaſion. It was natural, ſir, for the late convention, to adopt the mode after it had been agreed to by eleven ſtates, and to uſe the expreſſion, which they found had been received as unexceptionable before. With reſpect to the clauſe, reſtricting congreſs from prohibiting the migration or importation of ſuch perſons, as any of the ſtates now exiſting, ſhall think proper to admit, prior to the year 1808. The honorable gentleman ſays, that this clauſe is not only dark, but intended to grant to congreſs, for that time, the power to admit the importation of ſlaves. No ſuch thing was intended ; but I will tell you what was done, and it gives me high pleaſure, that ſo much was done. Under the preſent confederation, the ſtates may admit the importation of ſlaves as long as they pleaſe ; but by this article after the year 1808, the congreſs will have power to prohibit ſuch importation, notwithſtanding the diſpoſitian of any ſtate to the contrary. I conſider this as laying the foundation for baniſhing ſlavery out of this country ; and though the period is more diſtant than I could wiſh, yet it will produce the ſame kind, gradual change, which was purſued in Pennſylvania. It is with much ſatisfaction I view this power in the general government, whereby they may lay

an interdiction on this reproachful trade; but an immediate advantage is alſo obtained, for a tax or duty may be impoſed on ſuch importation, not exceeding ten dollars for each perſon; and, this fir, operates as a partial prohibition; it was all that could be obtained, I am ſorry it was no more; but from this I think there is reaſon to hope, that yet a few years, and it will be prohibited altogether; and in the mean time, the new ſtates which are to be formed, will be under the control of congreſs in this particular; and ſlaves will never be introduced amongſt them. The gentleman ſays, that it is unfortunate in another point of view; it means to prohibit the introduction of white people from Europe, as this tax may deter them from coming amongſt us; a little impartiality and attention will diſcover the care that the convention took in ſelecting their language. The words are, the *migration or* IMPORTATION of ſuch perſons, &c. ſhall not be prohibited by congreſs prior to the year 1808, but a tax or duty may be impoſed on ſuch IMPORTATION; it is obſervable here, that the term migration is dropped, when a tax or duty is mentioned; ſo that congreſs have power to impoſe the tax, only on thoſe imported.

TUESDAY DECEMBER, 4, 1787, A. M.

Mr. WILSON.

I ſhall take this opportunity, of giving an anſwer to the objections already urged againſt the conſtitution; I ſhall then point out ſome of thoſe qualities, that entitle it to the attention and approbation of this convention; and after having done this, I ſhall take a fit opportunity of ſtating the conſequences, which I apprehend will reſult from rejecting it, and thoſe which will probably reſult from its adoption. I have given the utmoſt attention to the debates and the objections, that from time to time have been made by the three gentlemen who ſpeak in oppoſition. I have reduced them to ſome order, perhaps not better than that in which they were introduced. I will ſtate them; they will be in the recollection of the houſe, and I will endeavour to give an anſwer to them—in that anſwer, I will interweave ſome remarks, that may tend to illucidate the ſubject.

A good deal has already been ſaid, concerning a bill of rights; I have ſtated, according to the beſt of my recollec-

tion, all that paſſed in convention, relating to that buſineſs. Since that time, I have ſpoken with a gentleman, who has not only his memory, but full notes, that he had taken in that body; and he aſſures me, that upon this ſubject, no direct motion was ever made at all; and certainly, before we heard this ſo violently ſupported out of doors, ſome pains ought to have been taken to have tried its fate within; but the truth is, a bill of rights would, as I have mentioned already, have been not only unneceſſary but improper. In ſome governments it may come within the gentleman's idea, when he ſays it can do no harm; but even in theſe governments, you find bills of rights do not uniformly obtain; and do thoſe ſtates complain who have them not? Is it a maxim in forming governments, that not only all the powers which are given, but alſo that all thoſe which are reſerved, ſhould be enumerated? I apprehend, that the powers given and reſerved, form the whole rights of the people, as men and as citizens. I conſider, that there are very few, who underſtand the *whole* of theſe rights. All the political writers, from Grotius and Puffendorf, down to Vattel, have treated on this ſubject; but in no one of thoſe books, nor in the aggregate of them all, can you find a complete enumeration of rights, appertaining to the people as men and as citizens.

There are two kinds of government; that where general power is intended to be given to the legiſlature, and that, where the powers are particularly enumerated. In the laſt caſe, the implied reſult is, that nothing more is intended to be given, than what is ſo enumerated, unleſs it reſults from the nature of the government itſelf. On the other hand, when general legiſlative powers are given, then the people part with their authority, and on the gentleman's principle of government, retain nothing. But in a government like the propoſed one, there can be no neceſſity for a bill of rights. For, on my principle, the people never part with their power. Enumerate all the rights of men!—I am ſure, ſir, that no gentleman in the late convention would have attempted ſuch a thing. I believe the honorable ſpeakers in oppoſition on this floor, were members of the aſſembly which appointed delegates to that convention; if it had been thought proper to have ſent them into that body, how luminous would the *dark conclave* have been! So the gentleman has been pleaſed to denominate that body. Ariſtocrats as they were, they pretended not to define the rights of thoſe who ſent

them there. We are aſked repeatedly, what *harm* could the addition of a bill of rights do? If it can do no *good*, I think that a ſufficient reaſon, to refuſe having any thing to do with it. But to whom are we to report this bill of rights, if we ſhould adopt it? Have we authority from thoſe who ſent us here to make one?

It is true we may propoſe, as well as any other private perſons; but how ſhall we know the ſentiments of the citizens of this ſtate and of the other ſtates? are we certain that any one of them will agree with our definitions and enumerations?

In the ſecond place, we are told, that there is no check upon the government but the people; it is fortunate, ſir, if their ſuperintending authority is allowed as a check: But I apprehend that in the very conſtruction of this government, there are numerous checks. Beſides thoſe expreſſly enumerated, the two branches of the legiſlature are mutual checks upon each other. But this ſubject will be more properly diſcuſſed, when we come to conſider the form of government itſelf; and then I mean to ſhew the reaſon, why the right of habeas corpus was ſecured by a particular declaration in its favor.

In the third place we are told, that there is no ſecurity for the rights of conſcience. I aſk the honorable gentleman, what part of this ſyſtem puts it in the power of congreſs to attack thoſe rights? when there is no power to attack, it is idle to prepare the means of defence.

After having mentioned, in a curſory manner, the foregoing objections, we now arrive at the leading ones againſt the propoſed ſyſtem.

The very manner of introducing this conſtitution, by the recognition of the authority of the people, is ſaid to change the principle of the preſent confederation, and to introduce a *conſolidating* and abſorbing government!

In this confederated republic, the ſovereignty of the ſtates, it is ſaid, is not preſerved. We are told, that there cannot be two ſovereign powers, and that a ſubordinate ſovereignty is no ſovereignty.

It will be worth while, Mr. Preſident, to conſider this objection at large. When I had the honor of ſpeaking formerly on this ſubject, I ſtated, in as conciſe a manner as poſſible, the leading ideas that occurred to me, to aſcertain where the ſupreme and ſovereign power reſides. It has not

been, nor, I presume, will it be denied, that somewhere there is, and of necessity must be, a supreme, absolute and uncontrolable authority. This, I believe, may justly be termed the sovereign power; for from that gentleman's (Mr. Findley) account of the matter, it cannot be sovereign, unless it is supreme; for, says he, a subordinate sovereignty is no sovereignty at all. I had the honor of observing, that if the question was asked, where the supreme power resided, different answers would be given by different writers. I mentioned, that Blackstone will tell you, that in Britain, it is lodged in the British parliament; and I believe there is no writer on this subject on the other side of the Atlantic, but supposes it to be vested in that body. I stated further, that if the question was asked, some politician, who had not considered the subject with sufficient accuracy, where the supreme power resided in our governments, he would answer, that it was vested in the state constitutions. This opinion approaches near the truth, but does not reach it; for the truth is, that the supreme, absolute and uncontrolable authority, *remains* with the people. I mentioned also, that the practical recognition of this truth was reserved for the honor of this country. I recollect no constitution founded on this principle: But we have witnessed the improvement, and enjoy the happiness, of seeing it carried into practice. The great and penetrating mind of Locke, seems to be the only one that pointed towards even the theory of this great truth.

When I made the observation, that some politicians would say the supreme power was lodged in our state constitutions, I did not suspect that the honorable gentleman from Westmoreland (Mr. Findley) was included in that description; but I find myself disappointed; for I imagined his opposition would arise from another consideration. His position is, that the supreme power resides in the states, as governments; and mine is, that it *resides* in the PEOPLE, as the fountain of government; that the people have not—that the people mean not—and that the people ought not, to part with it to any government whatsoever. In their hands it remains secure. They can delegate it in such proportions, to such bodies, on such terms, and under such limitations, as they think proper. I agree with the members in opposition, that there cannot be two sovereign powers on the same subject.

I consider the people of the United States, as forming one

great community; and I conſider the people of the different ſtates, as forming communities again on a leſſer ſcale. From this great diviſion of the people into diſtinct communities, it will be found neceſſary, that different proportions of legiſlative powers ſhould be given to the governments, according to the nature, number, and magnitude of their objects.

Unleſs the people are conſidered in theſe two views, we ſhall never be able to underſtand the principle on which this ſyſtem was conſtructed. I view the ſtates as made *for* the People, as well as *by* them, and not the People as made for the ſtates; the People, therefore, have a right, whilſt enjoying the undeniable powers of ſociety, to form either a general government, or ſtate governments, in what manner they pleaſe; or to accommodate them to one another; and by this means preſerve them all; this, I ſay, is the inherent and unalienable right of the people; and as an illuſtration of it, I beg to read a few words from the declaration of independence, made by the repreſentatives of the United States, and recognized by the whole union.

"We hold theſe truths to be ſelf-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among theſe are life, liberty, and the purſuit of happineſs. That to ſecure theſe rights, *governments* are inſtituted among men, *deriving their juſt powers from the conſent of the governed*; that whenever any form of government becomes deſtructive of theſe ends, it is the RIGHT of the People, to alter or to aboliſh it, and inſtitute new governments, laying its foundation on ſuch principles, and organizing its powers in ſuch forms, as to them ſhall ſeem moſt likely to effect their ſafety and happineſs."

This is the broad baſis on which our independence was placed: on the ſame certain and ſolid foundation this ſyſtem is erected.

State ſovereignty, as it is called, is far from being able to ſupport its weight. Nothing leſs than the authority of the people, could either ſupport it, or give it efficacy. I cannot paſs over this ſubject, without noticing the different conduct purſued by the late fœderal convention, and that obſerved by the convention which framed the conſtitution of Pennſylvania; on that occaſion you find an attempt made to deprive the people of this right, ſo lately and ſo expreſſly aſſerted in the declaration of independence. We are told in

the preamble to the declaration of rights, and frame of government, that *we* "do, by virtue of the authority veſted in *us*, ordain, declare and eſtabliſh, the following declaration of rights, and frame of government, to be the conſtitution of this commonwealth, and to remain in force therein UNALTERED, except in ſuch articles as ſhall hereafter, on experience, be found to require improvement, and which ſhall, by the ſame authority of the people, fairly delegated *as this frame of government directs*"—An honorable gentleman, (Mr. Chambers) was well warranted in ſaying, that all that could be done, was done, to cut off the people from the right of amending; for if it be amended by any other mode than that which it directs, then any number more than one-third, may control any number leſs than two-thirds.

But I return to my general reaſoning.—My poſition is, ſir, that in this country the ſupreme, abſolute, and uncontrolable power reſides in the people at large; that they have veſted certain proportions of this power in the ſtate governments; but that the fee-ſimple continues, reſides and remains, with the body of the people. Under the practical influence of this great truth, we are now ſitting and deliberating, and under its operation, we can ſit as calmly, and deliberate as coolly, in order to change a conſtitution, as a legiſlature can ſit and deliberate under the power of a conſtitution, in order to alter or amend a law. It is true the exerciſe of this power will not probably be ſo frequent, nor reſorted to on ſo many occaſions in one caſe, as in the other: but the recognition of the principle cannot fail to eſtabliſh it more firmly; becauſe this recognition is made in the propoſed conſtitution, an exception is taken to the whole of it: for we are told, it is a violation of the preſent confederation—a CONFEDERATION of SOVEREIGN STATES. I ſhall not enter into an inveſtigation of the preſent confederation, but ſhall juſt remark, that its principle is not the principle of free governments. The PEOPLE of the United States are not as ſuch repreſented in the preſent congreſs; and conſidered even as the component parts of the ſeveral ſtates, they are not repreſented in proportion to their numbers and importance.

In this place I cannot help remarking, on the general inconſiſtency which appears between one part of the gentleman's objections and another. Upon the principle we have now mentioned, the honorable gentleman contended, that

the powers ought to flow from the ſtates; and that all the late convention had to do, was to give additional powers to congreſs. What is the preſent form of congreſs? A ſingle body, with ſome legiſlative, but little executive, and no effective judicial power. What are theſe additional powers that are to be given? In ſome caſes legiſlative are wanting, in others judicial, and in others executive; theſe, it is ſaid, ought to be allotted to the general government; but the impropriety of delegating ſuch extenſive truſt to one body of men is evident; yet in the ſame day, and perhaps in the ſame hour, we are told, by honorable gentlemen, that theſe three branches of government are not kept ſufficiently diſtinct in this conſtitution; we are told alſo that the ſenate, poſſeſſing ſome executive power, as well as legiſlative, is ſuch a monſter that it will ſwallow up and abſorb every other body in the general government, after having deſtroyed thoſe of the particular ſtates.

Is this reaſoning with conſiſtency? Is the ſenate under the propoſed conſtitution ſo tremendous a body, when checked in their legiſlative capacity by the houſe of repreſentatives, and in their executive authority, by the preſident of the United States? Can this body be ſo tremendous as the preſent congreſs, a ſingle body of men poſſeſſed of legiſlative, executive and judicial powers? to what purpoſe was Monteſquieu read to ſhew that this was a complete tyranny? the application would have been more properly made by the advocates of the propoſed conſtitution, againſt the patrons of the preſent confederation.

It is mentioned that this fœderal government will annihilate and abſorb all the ſtate governments. I wiſh to ſave as much as poſſible the time of the houſe, I ſhall not, therefore, recapitulate what I had the honor of ſaying laſt week on this ſubject; I hope it was then ſhewn, that inſtead of being aboliſhed (as inſinuated) from the very nature of things, and from the organization of the ſyſtem itſelf, the ſtate governments muſt exiſt, or the general government muſt fall amidſt their ruins; indeed ſo far as to the forms, it is admitted they may remain; but the gentlemen ſeem to think their power will be gone.

I ſhall have occaſion to take notice of this power hereafter, and, I believe, if it was neceſſary, it could be ſhewn that the ſtate governments, as ſtates, will enjoy as much

power, and more dignity, happineſs and ſecurity, than they have hitherto done. I admit, ſir, that ſome of the powers will be taken from them, by the ſyſtem before you; but it is, I believe, allowed on all hands, at leaſt it is not among us a diſputed point, that the late convention was appointed with a particular view to give more power to the government of the union: it is alſo acknowled, that the intention was to obtain the advantage of an efficient government over the United States; now, if power is to be given to that government, I apprehend it muſt be taken from ſome place: If the ſtate governments are to retain all the powers they held before, then, of conſequence, every new power that is given to congreſs muſt be taken from the people at large. Is this the gentleman's intention? I believe a ſtrict examination of this ſubject will juſtify me in aſſerting, that the ſtates, as governments, have aſſumed too much power to themſelves, while they left little to the people. Let not this be called cajoling the people—the elegant expreſſion uſed by the honorable gentleman from Weſtmoreland (Mr. Findley) it is hard to avoid cenſure on one ſide or the other. At ſome time it has been ſaid, that I have not been at the pains to conceal my contempt of the people; but when it ſuits a purpoſe better, it is aſſerted that I cajole them. I do neither one nor the other. The voice of approbation, ſir, when I think that approbation well earned, I confeſs is grateful to my ears; but I would diſdain it, if it is to be purchaſed by a ſacrifice of my duty, or the dictates of my conſcience. No, ſir, I go practically into this ſyſtem, I have gone into it practically when the doors were ſhut; when it could not be alleged that I cajoled the people, and I now endeavour to ſhew that the true and only ſafe principle for a free people, is a practical recognition of their original and ſupreme authority.

I ſay, ſir, that it was the deſign of this ſyſtem, to take ſome power from the ſtate government, and to place it in the general government. It was alſo the deſign, that the people ſhould be admitted to the exerciſe of ſome powers, which they did not exerciſe under the preſent confederation. It was thought proper, that the citizens, as well as the ſtates ſhould be repreſented; how far the repreſentation in the ſenate is a repreſentation of ſtates, we ſhall ſee by and by, when we come to conſider that branch of the fœderal government.

This ſyſtem, it is ſaid, "unhinges and eradicates the ſtate governments, and was ſyſtematically intended ſo to do;" to eſtabliſh the *intention*, an argument is drawn from Art. 1ſt ſect. 4th on the ſubject of elections. I have already had occaſion to remark upon this, and ſhall therefore paſs on to the next objection.

That the laſt clauſe of the ht8 ſect. of the 1ſt article, gives the power of ſelf-preſervation to the general government, *independent* of the ſtates. For in caſe of their *abolition*, it will be alleged in behalf of the general government, that ſelf-preſervation is the firſt law, and neceſſary to the exerciſe of *all other* powers.

Now let us ſee what this objection amounts to. Who are to have this ſelf-preſerving power? the congreſs. Who are congreſs? it is a body that will conſiſt of a ſenate and a houſe of repreſentatives. Who compoſe this ſenate? thoſe who are *elected* by the *legiſlatures* of the different ſtates. Who are the electors of the houſe of repreſentatives? Thoſe who are *qualified* to *vote* for the moſt numerous branch of the *legiſlature* in the ſeparate ſtates. Suppoſe the ſtate legiſlatures annihilated, where is the criterion to aſcertain the qualification of electors? and unleſs this be aſcertained, they cannot be admitted to vote; if a ſtate legiſlature is not elected, there can be no ſenate, becauſe the ſenators are to be choſen by the *legiſlatures only*.

This is a plain and ſimple deduction from the conſtitution, and yet the objection is ſtated as concluſive upon an argument expreſſly drawn from the laſt clauſe of this ſection.

It is repeated, with confidence, "that this is not a *fœderal* government, but a complete one, with legiſlative, executive and judicial powers: It is a *conſolidating* government." I have already mentioned the miſuſe of the term; I wiſh the gentleman would indulge us with his definition of the word. If, when he ſays it is a conſolidation, he means ſo far as relates to the general objects of the union—ſo far it was intended to be a conſolidation, and on ſuch a conſolidation, perhaps our very exiſtence, as a nation, depends. If, on the other hand (as ſomething which has been ſaid ſeems to indicate) he (Mr. Findley) means that it will abſorb the governments of the individual ſtates, ſo far is this poſition from being admitted, that it is unanſwerably controverted. The exiſtence of the ſtate government, is one of the moſt prominent features of this ſyſtem. With regard to thoſe purpoſes

which are allowed to be for the general welfare of the union, I think it no objection to this plan, that we are told it is a complete government. I think it no objection, that it is alleged the government will poſſeſs legiſlative, executive and judicial powers. Should it have only legiſlative authority! we have had examples enough of ſuch a government, to deter us from continuing it. Shall congreſs any longer continue to make requiſitions from the ſeveral ſtates, to be treated ſometimes with ſilent and ſometimes with declared contempt? For what purpoſe give the power to make laws, unleſs they are to be executed? and if they are to be executed, the executive and judicial powers will neceſſarily be engaged in the buſineſs.

Do we wiſh a return of thoſe inſurrections and tumults to which a ſiſter ſtate was lately expoſed? or a government of ſuch inſufficiency as the preſent is found to be? Let me, ſir, mention one circumſtance in the recollection of every honorable gentleman who hears me. To the determination of congreſs are ſubmitted all diſputes between ſtates, concerning boundary, juriſdiction, or right of ſoil. In conſequence of this power, after much altercation, expence of time, and conſiderable expence of money, this ſtate was ſucceſsful enough to obtain a decree in her favour, in a difference then ſubſiſting between her and Connecticut; but what was the conſequence? the congreſs had no power to carry the decree into execution. Hence the diſtraction and animoſity, which have ever ſince prevailed, and ſtill continue in that part of the country. Ought the government then to remain any longer incomplete? I hope not; no perſon can be ſo inſenſible to the leſſons of experience as to deſire it.

It is brought as an objection "that there will be a rivalſhip between the ſtate governments and the general government; on each ſide endeavours will be made to increaſe power."

Let us examine a little into this ſubject. The gentlemen tell you, ſir, that they expect the ſtates will not poſſeſs any power. But I think there is reaſon to draw a different concluſion. Under this ſyſtem their reſpectibility and power will increaſe with that of the general government. I believe their happineſs and ſecurity will increaſe in a ſtill greater proportion; let us attend a moment to the ſituation of this country, it is a maxim of every government, and it ought to be a maxim with us, that the increaſe of numbers increaſes the dignity, the ſecurity, and the reſpectability of all go-

vernments; it is the firſt command given by the Deity to man, increaſe and multiply; this applies with peculiar force to this country, the ſmaller part of whoſe terrotory is yet inhabited. We are repreſentatives, ſir, not merely of the preſent age, but of future times; not merely of the territory along the ſea coaſt, but of regions immenſely extended weſtward. We ſhould fill, as faſt as poſſible, this extenſive country, with men who ſhall live happy, free and ſecure. To accompliſh this great end ought to be the leading view of all our patriots and ſtateſmen. But how is it to be accompliſhed, but by eſtabliſhing peace and harmony among ourſelves, and dignity and reſpectability among foreign nations. By theſe means, we may draw numbers from the other ſide of the atlantic, in addition to the natural ſources of population. Can either of theſe objects be attained without a protecting head?—When we examine hiſtory, we ſhall find an important fact, and almoſt the only fact, which will apply to all confederacies. They have all fallen to pieces, and have not abſorbed the ſubordinate government.

In order to keep republics together they muſt have a ſtrong binding force, which muſt be either external or internal. The ſituation of this country ſhews, that no foreign force can preſs us together, the bonds of our union ought therefore to be indiſſolubly ſtrong.

The powers of the ſtates, I apprehend, will increaſe with the population, and the happineſs of their inhabitants. Unleſs we can eſtabliſh a character abroad, we ſhall be unhappy from foreign reſtraints, or internal violence. Theſe reaſons, I think, prove ſufficiently the neceſſity of having a fœderal head. Under it the advantages enjoyed by the whole union would be participated by every ſtate. I wiſh honorable gentlemen would think not only of themſelves, not only of the preſent age, but of others, and of future times.

It has been ſaid, "that the ſtate governments will not be able to make head againſt the general government," but it might be ſaid with more propriety, that the general government will not be able to maintain the powers given it againſt the encroachments and combined attacks of the ſtates governments. They poſſeſs ſome particular advantages, from which the general government is reſtrained. By this ſyſtem, there is a proviſion made in the conſtitution, that, no ſenator or repreſentative, ſhall be appointed to any civil office under the authority of the United States, which ſhall have been

created, or the emoluments whereof ſhall have been increaſed, during the time for which he was elected; and no perſon holding any office under the United States can be a member of either houſe; but there is no ſimilar ſecurity againſt ſtate influence, as a repreſentative may enjoy places, and even ſinecures under the ſtate governments. On which ſide is the door moſt open to corruption? if a perſon in the legiſlature is to be influenced by an office, the general government can give him none unleſs he vacate his ſeat. When the influence of office comes from the ſtate government, he can retain his ſeat and ſalary too. But, it is added, under this head "that ſtate governments will loſe the attachment "of the people, by loſing the power of conferring advan-"tages, and that the people will not be at the expence of "keeping them up." Perhaps the ſtate governments have already become ſo expenſive as to alarm the gentlemen on that head. I am told that the civil liſt of this ſtate amounted to £. 40,000, in one year. Under the propoſed government, I think it would be poſſible to obtain in Pennſylvania every advantage we now poſſeſs, with a civil liſt that ſhall not exceed one-third of that ſum.

How differently the ſame thing is talked of, if it be a favorite or otherwiſe! when advantages to an officer are to be derived from the general government, we hear them mentioned by the name of *bribery*, but when we are told of the ſtates governments loſing the power of conferring advantages, by the diſpoſal of offices, it is ſaid they will looſe the *attachment* of the people: What is in one inſtance corruption and bribery, is in another the power of conferring advantages.

We are informed "that the ſtate elections will be ill attended, and that the ſtate governments will become mere boards of electors." Thoſe who have a due regard for their country, will diſcharge their duty, and attend; but thoſe who are brought only from intereſt or purſuaſion had better ſtay away; the public will not ſuffer any diſadvantage from their abſence. But the honeſt citizens, who know the value of the privilege, will undoubtedly attend, to ſecure the man of his choice. The power and buſineſs of the ſtate legiſlatures relates to the great objects of life liberty and property, the ſame are alſo objects of the general government.

Certainly the citizens of America will be as tenacious in the one inſtance as in the other. They will be intereſted, and I hope will exert themſelves, to ſecure their rights not

only from being injured by the ſtate governments, but alſo from being injured by the general government.

" The power over election, and of judging of elections, gives abſolute ſovereignty," this power is given to every ſtate legiſlature, yet I ſee no neceſſity, that the power of abſolute ſovereignty ſhould accompany it. My general poſition is, that the abſolute ſovereignty never goes from the people.

We are told, "that it will be in the power of the ſenate to prevent any addition of repreſentatives to the lower houſe."

I believe their power will be pretty well balanced, and though the ſenate ſhould have a deſire to do this, yet the attempt will anſwer no purpoſe ; for the houſe of repreſentatives will not let them have a farthing of public money, till they agree to it. And the latter influence will be as ſtrong as the other.

"Annual aſſemblies are neceſſary" it is ſaid—and I anſwer in many inſtances they are very proper.—In Rhode-Iſland and Connecticut they are elected for ſix months. In larger ſtates, that period would be found very inconvenient, but in a government as large as that of the United States, I preſume that annual elections would be more diſproportionate, than elections for ſix months would be in ſome of our largeſt ſtates.

" The Britiſh parliament took to themſelves the prolongation of their ſitting to ſeven years. But even in the Britiſh parliament the appropriations are annual."

But, ſir, how is the argument to apply here?—how are the congreſs to aſſume ſuch a power ? they cannot aſſume it under the conſtitution, for that expreſſly provides "the members of the houſe of repreſentatives ſhall be choſen every two years, by the people of the ſeveral ſtates, and the ſenators for ſix years." So if they take it at all, they muſt take it by uſurpation and force.

"Appropriations may be made for two years,—though in the Britiſh parliament they are made but for one,"—for ſome purpoſes, ſuch appropriations may be made annually, but for every purpoſe they are not ; even for a ſtanding army, they may be made for ſeven, ten, or fourteen years—the civil liſt is eſtabliſhed, during the life of a prince.—Another objection is "that the members of the ſenate may enrich themſelves—they may hold their office as long as they live, and there is no power to prevent them ; the ſenate will ſwal-

low up every thing"—I am not a blind admirer of this ſyſtem. Some of the powers of the ſenators are not with me the favorite parts of it, but as they ſtand connected with other parts, there is ſtill ſecurity againſt the efforts of that body: it was with great difficulty that ſecurity was obtained, and I may riſque the conjecture, that if it is not now accepted, it never will be obtained again from the ſame ſtates. Though the ſenate was not a favorite of mine, as to ſome of its powers, yet it was a favorite with a majority in the union, and we muſt ſubmit to that majority, or we muſt break up the union. It is but fair to repeat thoſe reaſons, that weighed with the convention; perhaps, I ſhall not be able to do them juſtice, but yet I will attempt to ſhew, why additional powers were given to the ſenate, rather than to the houſe of repreſentatives. Theſe additional powers, I believe, are, that of trying impeachments, that of concurring with the preſident in making treaties, and that of concurring in the appointment of officers. Theſe are the powers that are ſtated as improper. It is fortunate, that in the exerciſe of every one of them, the ſenate ſtands controlled; if it is that monſter which it ſaid to be, it can only ſhew its teath; it is unable to bite or devour: With regard to impeachments, the ſenate can try none but ſuch as will be brought before them by the houſe of repreſentatives.

The ſenate can make no treaties; they can approve of none unleſs the preſident of the United States lay it before them. With regard to the appointment of officers, the preſident muſt nominate before they can vote: So that if the powers of either branch are perverted, itmuſt be with the approbation of ſome one of the other branches of government: thus checked on each ſide, they can do noo ne act of themſelves.

"The powers of congreſs extend to taxation---to direct taxation---to internal taxation---to poll taxes---to exciſes---to other ſtate and internal purpoſes." Thoſe who poſſeſs the power to tax, poſſeſs all other ſovereign power. That their powers are thus extenſive is admitted; and would any thing ſhort of this have been ſufficient? is it the wiſh of theſe gentlemen? if it is let us hear their ſentiments---that the general government ſhould ſubſiſt on the bounty of the ſtates. Shall it have the power to contract, and no power to fulfil the contract? Shall it have the power to borrow

money, and no power to pay the principal or intereſt? Muſt we go on, in the tract that we have hitherto purſued? and muſt we again compel thoſe in Europe, who lent us money in our diſtreſs, to advance the money to pay themſelves intereſt on the certificates of the debts due to them?

This was actually the caſe in Holland, the laſt year.—Like thoſe who have ſhot one arrow, and cannot regain it, they have been obliged to ſhoot another in the ſame direction, in order to recover the firſt. It was abſolutely neceſſary, ſir, that this government ſhould poſſeſs theſe rights, and why ſhould it not as well as the ſtate governments? Will this government be fonder of the exerciſe of this authority, than thoſe of the ſtates are? Will the ſtates, who are equally repreſented in one branch of the legiſlature, be more oppoſed to the payment of what ſhall be required by the future, than what has been required by the preſent congreſs? Will the people, who muſt indiſputably pay the whole, have more objections to the payment of this tax, becauſe it is laid by perſons of their own immediate appointment, even if thoſe taxes were to continue as oppreſſive as they now are?—but under the general power of this ſyſtem, that cannot be the caſe in Pennſylvania. Throughout the union, direct taxation will be leſſened, at leaſt in proportion to the encreaſe of the other objects of revenue.—In this conſtitution, a power is given to congreſs to collect impoſts, which is not given by the preſent articles of confederation. A very conſiderable part of the revenue of the United States will ariſe from that ſource; it is the eaſieſt, moſt juſt, and moſt productive mode of raiſing revenue; and it is a ſafe one, becauſe it is voluntary. No man is obliged to conſume more than he pleaſes, and each buys in proportion only to his conſumption. The price of the commodity is blended with the tax, and the perſon is often not ſenſible of the payment. But would it have been proper to have reſted the matter there? Suppoſe this fund ſhould not prove ſufficient, ought the public debts to remain unpaid? Or the exigencies of government be left unprovided for? Should our tranquillity be expoſed to the aſſaults of foreign enemies, or violence among ourſelves, becauſe the objects of commerce may not furniſh a ſufficient revenue to ſecure them all? Certainly congreſs ſhould poſſeſs the power of raiſing revenue from their conſtituents, for the purpoſe mentioned in the eighth ſection of the firſt article, that is "to pay the debts and provide for

the common defence and general welfare of the United States." It has been common, with the gentlemen on this ſubject, to preſent us with frightful pictures. We are told of the hoſts of tax-gatherers that will ſwarm through the land; and whenever taxes are mentioned, military force ſeems to be an attending idea. I think I may venture to predict, that the taxes of the general government (if any ſhall be laid) will be more equitable, and much leſs expenſive, than thoſe impoſed by the ſtate government.

I ſhall not go into an inveſtigation of this ſubject; but it muſt be confeſſed, that ſcarcely any mode of laying and collecting taxes can be more burdenſome than the preſent.

Another objection is, "that congreſs may borrow money, keep up ſtanding armies, and command the militia:" The preſent congreſs poſſeſſes the power of borrowing money and of keeping up ſtanding armies. Whether it will be proper at all times to keep up a body of troops, will be a queſtion to be determined by congreſs; but I hope the neceſſity will not ſubſiſt at all times; but if it ſhould ſubſiſt, where is the gentleman that will ſay that they ought not to poſſeſs the neceſſary power of keeping them up?

It is urged, as a general objection to this ſyſtem, that "the powers of congreſs are unlimitted and undefined, and that they will be the judges, in all caſes, of what is neceſſary and proper for them to do." To bring this ſubject to your view, I need do no more than point to the words in the conſtitution, beginning at the 8th ſect. art. 1ſt. "The congreſs (it ſays) ſhall have power, &c." I need not read over the words, but I leave it to every gentleman to ſay whether the powers are not as accurately and minutely defined, as can be well done on the ſame ſubject, in the ſame language. The old conſtitution is as ſtrongly marked on this ſubject; and even the concluding clauſe, with which ſo much fault has been found, gives no more, or other powers; nor does it in any degree go beyond the particular enumeration; for when it is ſaid, that congreſs ſhall have power to make all laws which ſhall be neceſſary and proper, thoſe words are limitted, and defined by the following, "for carrying into execution the foregoing powers." It is ſaying no more than that the powers we have already particularly given, ſhall be effectually carried into execution.

I ſhall not detain the houſe, at this time, with any further obſervations on the liberty of the preſs, until it is ſhewn that

congreſs have any power whatſoever to interfere with it, by licenſing it, or declaring what ſhall be a libel.

I proceed to another objection, which was not ſo fully ſtated as I believe it will be hereafter; I mean the objection againſt the judicial department. The gentleman from Weſtmoreland only mentioned it to illuſtrate his objection to the legiſlative department. He ſaid "that the judicial powers were co-extenſive with the legiſlative powers, and extend even to capital caſes." I believe they ought to be co-extenſive, otherwiſe laws would be framed, that could not be executed. Certainly, therefore, the executive and judicial departments ought to have power commenſurate to the extent of the laws; for, as I have already aſked, are we to give power to *make* laws, and no power to *carry them into effect?*

I am happy to mention the puniſhment annexed to one crime. You will find the current running ſtrong in favour of humanity. For this is the firſt inſtance in which it has not been left to the legiſlature, to extend the crime and puniſhment of treaſon ſo far as they thought proper. This puniſhment, and the deſcription of this crime, are the great ſources of danger and perſecution, on the part of government againſt the citizen. Crimes againſt the ſtate! and againſt the officers of the ſtate! Hiſtory informs us, that more wrong may be done on this ſubject than on any other whatſoever. But under this conſtitution, there can be no treaſon againſt the United States, except ſuch as is defined in this conſtitution. The manner of trial is clearly pointed out; the poſitive teſtimony of two witneſſes to the ſame overt act, or a confeſſion in open court, is required to convict any perſon of treaſon. And after all, the conſequences of the crime ſhall extend no further than the life of the criminal; for no attainder of treaſon ſhall work corruption of blood, or forfeiture, except during the life of the perſon attainted.

I come now to conſider the laſt ſet of objections that are offered againſt this conſtitution. It is urged, that this is not ſuch a ſyſtem as was within the powers of the convention; they aſſumed the *power of propoſing*. I believe they might have made propoſals without going beyond their powers. I never heard before, that to make a propoſal was an exerciſe of power. But if it is an exerciſe of power, they certainly did aſſume it; yet they did not act as that body who framed the preſent conſtitution of Pennſylvania acted; they did not by an ordinance, attempt to rivet the conſtitution on

the people, before they could vote for members of assembly under it. Yet such was the effect of the ordinance that attended the constitution of this commonwealth. I think the late convention have done nothing beyond their powers. The fact is, they have exercised no power at all. And in point of validity, this constitution, proposed by them for the government of the United States, claims no more than a production of the same nature would claim, flowing from a private pen. It is laid before the citizens of the United States, unfettered by restraint; it is laid before them, to be judged by the natural, civil and political rights of men. By their FIAT, it will become of value and authority; without it, it will never receive the character of authenticity and power. The business, we are told, which was entrusted to the late convention, was merely to amend the present articles of confederation. This observation has been frequently made, and has often brought to my mind, a story that is related of Mr. Pope, who it is well known, was not a little deformed. It was customary with him, to use this phrase, "God mend me," when any little accident happened. One evening a link boy was lighting him along, and coming to a gutter, the boy jumped nimbly over it—Mr. Pope called to him to turn, adding, "God mend me:" The arch rogue turned to light him—looked at him, and repeated "God mend you! he would sooner make half-a-dozen new ones." This would apply to the present confederation; for it would be easier to make another than to mend this. The gentlemen urge, that this is such a government as was not expected by the people, the legislatures, nor by the honorable gentlemen who mentioned it. Perhaps it was not such as was expected, *but it may be* BETTER; and is that a reason why it should not be adopted? it is not worse, I trust, than the former. So that the argument of its being a system not expected, is an argument more strong in its favour than against it. The letter which accompanies this constitution, must strike every person with the utmost force. "The friends of "our country have long seen and desired the power of war, "peace, and treaties, that of levying money and regulating "commerce, and the corresponding executive and judicial "authorities, should be fully and effectually vested in the "general government of the union; but the impropriety of "delegating such extensive trust to one body of men, is evi-"dent. *Hence results the necessity of a different organiza-*

"*tion.*" I therefore do not think that it can be urged as an objection againſt this ſyſtem, that it was not expected by the people. We are told, to add greater force to theſe objections, that they are not on local, but on general principles, and that they are uniform throughout the United States. I confeſs I am not altogether of that opinion; I think ſome of the objections are inconſiſtent with others, ariſing from a different quarter, and I think ſome are inconſiſtent, even with thoſe derived from the ſame ſource. But, on this occaſion, let us take the fact for granted, that they are all on general principles, and uniform throughout the United States.—Then we can judge of their full amount; and what are they, BUT TRIFLES LIGHT AS AIR? We ſee the whole force of them; for according to the ſentiments of oppoſition, they can no where be ſtronger, or more fully ſtated than here. The concluſion, from all theſe objections, is reduced to a point, and the plan is declared to be inimical to our liberties. I have ſaid nothing, and mean to ſay nothing, concerning the diſpoſitions or characters of thoſe that framed the work now before you. I agree that it ought to be judged by its own intrinſic qualities. If it has not merit, weight of character ought not to carry it into effect. On the other hand, if it has merit, and is calculated to ſecure the bleſſings of liberty, and to promote the general welfare, then ſuch objections as have hitherto been made ought not to influence us to reject it.

I am now led to conſider thoſe qualities that this ſyſtem of government poſſeſſes, which will entitle it to the attention of the United States. But as I have ſomewhat fatigued myſelf, as well as the patience of the honorable members of this houſe, I ſhall defer what I have to add on this ſubject until the afternoon.

EODEM DIE, P. M.

MR. WILSON.

Before I proceed to conſider thoſe qualities in the conſtitution before us, which I think will enſure it our approbation, permit me to make ſome remarks, and they ſhall be very conciſe, upon the objections that were offered this forenoon, by the member from Fayette (Mr. Smilie.) I do it, at this time, becauſe I think it will be better to give a ſatisfactory anſwer to the whole of the objections, before I proceed to

the other part of my ſubject. I find that the doctrine of a ſingle legiſlature is not to be contended for in this conſtitution. I ſhall therefore ſay nothing on that point. I ſhall conſider that part of the ſyſtem, when we come to view its excellencies. Neither ſhall I take particular notice of his obſervation on the qualified negative of the preſident; for he finds no fault with it; he mentions, however, that he thinks it a vain and uſeleſs power, becauſe it can never be executed. The reaſon he aſſigns for this is, that the king of Great-Britain, who has an abſolute negative over the laws propoſed by parliament, has never exerciſed it, at leaſt, not for many years. It is true, and the reaſon why he did not exerciſe it, was, that during all that time, the king poſſeſſed a negative before the bill had paſſed through the two houſes; a much ſtronger power than a negative after debate. I believe, ſince the revolution, at the time of William the IIId. it was never known, that a bill diſagreeable to the crown, paſſed both houſes. At one time in the reign of Queen Anne, when there appeared ſome danger of this being effected, it is well known that ſhe created twelve peers, and by that means effectually defeated it.—Again; there was ſome riſk of late years in the preſent reign, with regard to Mr. Fox's Eaſt-India bill, as it is uſually called, that paſſed through the houſe of commons, but the king had intereſt enough in the houſe of peers, to have it thrown out; thus it never came up for the royal aſſent. But that is no reaſon why this negative ſhould not be exerciſed here, and exerciſed with great advantage. Similar powers are known in more than one of the ſtates. The governors of Maſſachuſetts and New-York have a power ſimilar to this; and it has been exerciſed frequently to good effect.

I believe the governor of New-York, under this power, has been known to ſend back five or ſix bills in a week; and I well recollect that at the time the funding ſyſtem was adopted by our legiſlature, the people in that ſtate conſidered the negative of the governor as a great ſecurity, that their legiſlature would not be able to incumber them by a ſimilar meaſure. Since that time an alteration has been ſuppoſed in the governor's conduct, but there has been no alteration in his power.

The honorable gentleman from Weſtmoreland (Mr. Findley) by his highly refined critical abilities, diſcovers an in-

conſiſtency in this part of the conſtitution, and that which declares in ſection first: "All legiſlative powers, herein "granted, ſhall be veſted in a congreſs of the United States, "which ſhall conſiſt of a ſenate and a houſe of repreſenta-"tives," and yet here, ſays he, is a power of legiſlation given to the preſident of the United States, becauſe every bill, before it becomes a law, ſhall be preſented to him: Thus he is ſaid to poſſeſs legiſlative powers. Sir, the convention obſerved on this occaſion ſtrict propriety of language; "if he approve the bill when it is ſent, he ſhall ſign it, but if not he ſhall return it;" but no bill paſſes in conſequence of having his aſſent—therefore he poſſeſſes no legiſlative authority.

The effect of his power, upon this ſubject, is merely this, if he diſapproves a bill, two-thirds of the legiſlature become neceſſary, to paſs it into a law, inſtead of a bare majority. And when two-thirds are in favor of the bill, it becomes a law, not by his, but by authority of the two houſes of the legiſlature. We are told, in the next place, by the honorable gentleman from Fayette (Mr. Smilie) that in the different orders of mankind, there is that of a natural ariſtocracy. On ſome occaſions, there is a kind of magical expreſſion, uſed to conjure up ideas, that may create uneaſineſs and apprehenſion. I hope the meaning of the words is underſtood by the gentleman who uſed them.—I have aſked repeatedly of gentlemen to explain, but have not been able to obtain the explanation of what they meant by a conſolidated government.—They keep round and round about the thing, but never define. I aſk now what is meant by a natural ariſtocracy? I am not at a loſs for the etymological definition of the term, for, when we trace it to the language from which it is derived, an ariſtocracy means nothing more or leſs than a government of the beſt men in the community, or thoſe who are recommended by the words of the conſtitution of Pennſylvania, where it is directed, that the repreſentatives ſhould conſiſt of thoſe moſt noted for wiſdom and virtue. Is there any danger in ſuch repreſentation? I ſhall never find fault, that ſuch characters are employed. Happy for us, when ſuch characters can be obtained.—If this is meant by a natural ariſtocracy, and I know no other, can it be objectionable, that men ſhould be employed that are moſt noted for their virtue and talents?—And are attempts made to mark out theſe as the moſt improper perſons for the public confidence?

I had the honor of giving a definition, and I believe it was a juſt one, of what is called an ariſtocratic government. It is a government where the ſupreme power is not retained by the people, but reſides in a ſelect body of men, who either fill up the vacancies that happen, by their own choice and election, or ſucceed on the principle of deſcent, or by virtue of territorial poſſeſſions, or ſome other qualifications that are not the reſult of perſonal properties. When I ſpeak of perſonal properties, I mean the qualities of the head and the diſpoſition of the heart.

We are told that the repreſentatives will not be known to the people, nor the people to the repreſentatives, becauſe they will be taken from large diſtricts where they cannot be particularly acquainted. There has been ſome experience in ſeveral of the ſtates, upon this ſubject, and I believe the experience of all who have had experience, demonſtrates that the larger the diſtrict of election, the better the repreſentation. It is only in remote corners of a government, that little demagogues ariſe. Nothing but real weight of character, can give a man real influence over a large diſtrict. This is remarkably ſhewn in the commonwealth of Maſſachuſetts. The members of the houſe of repreſentatives, are choſen in very ſmall diſtricts, and ſuch has been the influence of party cabal and little intrigue in them, that a great majority ſeem inclined to ſhew very little diſapprobation of the conduct of the inſurgents in that ſtate.

The governor is choſen by the people at large, and that ſtate is much larger than any diſtrict need be under the propoſed conſtitution. In their choice of their governor, they have had warm diſputes; but however warm the diſputes, their choice only vibrated between the moſt eminent characters. Four of their candidates are well known; Mr. Hancock, Mr. Bowdoin, general Lincoln, and Mr. Gorham, the late preſident of congreſs.

I apprehend it is of more conſequence to be able to know the true intereſt of the people, than their faces, and of more conſequence ſtill, to have virtue enough to purſue the means of carrying that knowledge uſefully into effect. And ſurely when it has been thought hitherto, that a repreſentation in congreſs of from five to two members, was ſufficient to repreſent the intereſt of this ſtate, is it not more than ſufficient to have ten members in that body? and thoſe in a greater comparative proportion than heretofore? The citizens of Pennſylvania will be repreſented by eight, and the

ſtate by two. This, certainly, though not gaining enough, is gaining a good deal; the members will be more diſtributed through the ſtate, being the immediate choice of the people, who hitherto have not been repreſented in that body. It is ſaid that the houſe of repreſentatives will be ſubject to corruption, and the ſenate poſſeſs the means of corrupting, by the ſhare they have in the appointment to office. This was not ſpoken in the ſoft language of attachment to government. It is perhaps impoſſible, with all the caution of legiſlators and ſtateſmen, to exclude corruption and undue influence entirely from government. All that can be done, upon this ſubject, is done in the conſtitution before you. Yet it behoves us to call out, and add, every guard and preventative in our power. I think, ſir, ſomething very important, on this ſubject, is done in the preſent ſyſtem. For it has been provided, effectually, that the man that has been bribed by an office, ſhall have it no longer in his power to earn his wages. The moment he is engaged to ſerve the ſenate, in conſequence of their gift, he no longer has it in his power to ſit in the houſe of repreſentatives. For "no repreſentative ſhall, during the term for which he was elected, be appointed to any civil office, under the authority of the United States, which ſhall have been created, or the emoluments whereof ſhall have been encreaſed during ſuch time:" And the following annihilates corruption of that kind. "And no perſon holding any office under the United States, ſhall be a member of either houſe, during his continuance in office." So that the mere acceptance of an office as a bribe, effectually deſtroys the end for which it was offered. Was this attended to when it was mentioned, that the members of the one houſe could be bribed by the other? "But the members of the ſenate may enrich themſelves," was an obſervation, made as an objection to this ſyſtem. As the mode of doing this has not been pointed out, I apprehend the objection is not much relied upon. The ſenate are incapable of receiving any money, except what is paid them out of the public treaſury. They cannot vote to themſelves a ſingle penny, unleſs the propoſition originates from the other houſe. This objection therefore is viſionary, like the following one, "that pictured groupe, that numerous hoſt, and prodigious ſwarm of officers, which are to be appointed under the general government." The gentlemen

tell you that there must be judges of the supreme, and judges of the inferior courts, with all their appendages:—there will be tax-gatherers swarming throughout the land. Oh! say they, if we could enumerate the offices, and the numerous officers that must be employed every day, in collecting and receiving, and comptrolling the monies of the United States, the number would be almost beyond imagination. I have been told, but I do not vouch for the fact, that there are in one shape or another, more than a thousand persons in this very state, who get their living in assessing and collecting our revenues from the other citizens. Sir, when this business of revenue is conducted on a general plan, we may be able to do the business of the thirteen states, with an equal, nay, with a less number—instead of thirteen comptroller generals, one comptroller will be sufficient; I apprehend, that the number of officers, under this system, will be greatly reduced from the number now employed. For as congress can now do nothing effectually, the states are obliged to do every thing. And in this very point, I apprehend, that we shall be great gainers.

Sir, I confess I wish the powers of the senate were not as they are. I think it would have been better if those powers had been distributed in other parts of the system. I mentioned some circumstances in the forenoon, that I had observed on this subject. I may mention now, we may think ourselves very well off, sir, that things are as well as they are, and that that body is even so much restricted. But surely objections of this kind come with a bad grace from the advocates, or those who prefer the present confederation, and who wish only to encrease the powers of the present congress. A single body not constituted with checks, like the proposed one, who possess not only the power of making treaties, but executive powers, would be a perfect despotism; but, further, these powers are, in the present confederation, possessed without control.

As I mentioned before, so I will beg leave to repeat, that this senate can do nothing without the concurrence of some other branch of the government. With regard to their concern in the appointment to offices, the president must nominate before they can be chosen; the president must acquiesce in that appointment. With regard to their power in forming treaties, they can make none, they are only auxi-

liaries to the preſident. They muſt try all impeachments; but they have no power to try any until preſented by the houſe of repreſentatives; and when I conſider this ſubject, though I wiſh the regulations better, I think no danger to the liberties of this country can ariſe even from that part of the ſyſtem. But theſe objections, I ſay, come with a bad grace from thoſe who prefer the preſent confederation, who think it only neceſſary to add more powers to a body organized in that form. I confeſs, likewiſe, that by combining thoſe powers, of trying impeachments, and making treaties, in the ſame body, it will not be ſo eaſy as I think it ought to be, to call the ſenators to an account for any improper conduct in that buſineſs.

Thoſe who propoſed this ſyſtem, were not inattentive to do all they could. I admit the force of the obſervation, made by the gentleman from Fayette (Mr. Smilie) that when two-thirds of the ſenate concur in forming a bad treaty, it will be hard to procure a vote of two-thirds againſt them, if they ſhould be impeached. I think ſuch a thing is not to be expected; and ſo far they are without that *immediate* degree of reſponſibility, which I think requiſite, to make this part of the work perfect. But this will not be *always* the caſe. When a member of ſenate ſhall behave criminally, the criminality will not expire with his office. The ſenators may be called to account after they ſhall have been changed, and the body to which they belonged ſhall have been altered. There is a rotation; and every ſecond year one third of the whole number go out. Every fourth year two thirds of them are changed. In ſix years the whole body is ſupplied by a new one. Conſidering it in this view, reſponſibility is not entirely loſt. There is another view in which it ought to be conſidered, which will ſhew that we have a greater degree of ſecurity. Though they may not be convicted on impeachment before the ſenate, they may be tried by their country: and if their criminality is eſtabliſhed, the law will puniſh. A grand jury may preſent, a petty jury may convict, and the judges will pronounce the puniſhment. This is all that can be done under the preſent confederation, for under it there is no power of impeachment; even here then we gain ſomething. Thoſe parts that are exceptionable in this conſtitution, are improvements on that concerning which ſo much pains are taken to perſuade us, that it is preferable to the other.

The laſt obſervation reſpects the judges. It is ſaid that if they dare to decide againſt the law, one houſe will impeach them, and the other will convict them. I hope gentlemen will ſhew how this can happen, for bare ſuppoſition ought not to be admitted as proof. The judges are to be impeached, becauſe they decide an act null and void, that was made in defiance of the conſtitution! What houſe of repreſentatives would dare to impeach, or ſenate to commit judges for the performance of their duty? Theſe obſervations are of a ſimilar kind to thoſe with regard to the liberty of the preſs.

I will now proceed to take ſome notice of thoſe qualities in this conſtitution, that I think entitle it to our reſpect and favour. I have not yet done, ſir, with the great principle on which it ſtands; I mean the practical recognition of this doctrine, that in the United States the people retain the ſupreme power.

In giving a definition of the ſimple kinds of government known throughout the world, I had occaſion to deſcribe what I meant by a democracy; and I think I termed it, that government in which the people retain the ſupreme power, and exerciſe it either collectively or by repreſentation—this conſtitution declares this principle in its terms and in its conſequences, which is evident from the manner in which it is announced. "WE, THE PEOPLE OF THE UNITED STATES. After all the examination, which I am able to give the ſubject, I view this as the only ſufficient and the moſt honorable baſis, both for the people and government, on which our conſtitution can poſſibly reſt. What are all the contrivances of ſtates, of kingdoms and empires?—What are they all intended for? They are all intended for man, and our natural character and natural rights are certainly to take place, in preference to all artificial refinements that human wiſdom can deviſe.

I am aſtoniſhed to hear the ill-founded doctrine, that ſtates alone ought to be repreſented in the fœderal government; theſe muſt poſſeſs ſovereign authority forſooth, and the people be forgot—No—Let us *reaſcend* to firſt principles—That expreſſion is not ſtrong enough to do my ideas juſtice.

Let us RETAIN firſt principles. The people of the United States are now in the poſſeſſion and exerciſe of their original rights, and while this doctrine is known, and operates, we ſhall have a cure for every diſeaſe.

I ſhall mention another good quality, belonging to this ſyſtem.---In it the legiſlative, executive and judicial powers, are kept nearly independent and diſtinct. I expreſs myſelf in this guarded manner, becauſe I am aware of ſome powers that are blended in the ſenate. They are but few; and they are not dangerous. It is an exception, yet that exception conſiſts of but few inſtances, and none of them dangerous.—I believe in no conſtitution for any country on earth is this great principle ſo ſtrictly adhered to, or marked with ſo much preciſion and accuracy, as in this. It is much more accurate, than that which the honorable gentleman ſo highly extols, I mean the conſtitution of England.—There, ſir, one branch of the legiſlature can appoint the members of another. The king has the power of introducing members into the houſe of Lords. I have already mentioned that in order to obtain a vote, twelve peers were poured into that houſe at one time; the operation is the ſame, as might be under this conſtitution, if the preſident had a right to appoint the members of the ſenate. This power of the king's extends into the other branch, where, though he cannot immediately introduce a member, yet he can do it remotely by virtue of his prerogative, as he may create boroughs with power to ſend members to the houſe of commons. The houſe of lords form a much ſtronger exception to this principle than the ſenate in this ſyſtem; for the houſe of lords poſſeſs judicial powers, not only that of trying impeachments, but that of trying their own members, and civil cauſes when brought before them, from the courts of chancery, and the other courts in England.

If we therefore conſider this conſtitution, with regard to this ſpecial object, though it is not ſo perfect as I would wiſh, yet it is more perfect than any other government that I know.

I proceed to another property which I think will recommend it to thoſe who conſider the effects of beneficence and wiſdom. I mean the *diviſion of this legiſlative authority* into two branches. I had an opportunity of dilating ſomewhat on this ſubject before. And as it is not likely to afford a ſubject of debate, I ſhall take no further notice of it, than barely to mention it. The next good quality, that I remark, is, that the *executive authority is one*; by this means we obtain very important advantages. We may diſcover from hiſtory, from reaſoning and from experience, the ſecurity

which this furniſhes. The executive power is better to be truſted when it has no *ſcreen*. Sir, we have a reſponſibility in the perſon of our preſident; he cannot act improperly, and hide either his negligence, or inattention; he cannot roll upon any other perſon the weight of his criminality: No appointment can take place without his nomination; and he is reſponſible for every nomination he makes. We ſecure *vigour*; we well know what numerous executives are.—We know there is neither vigour, deciſion nor reſponſibility in them. Add to all this—That officer is placed high, and is poſſeſſed of power, far from being contemptible, yet not a *ſingle privilege* is annexed to his character; far from being *above the laws*, he is *amenable* to them in his *private character* as a *citizen*, and in his public character by impeachment.

Sir, it has often been a matter of ſurpriſe, and frequently complained of even in Pennſylvania, that the independence of the judges is not properly ſecured. The ſervile dependence of the judges, in ſome of the ſtates, that have neglected to make proper proviſion on this ſubject, endangers the liberty and property of the citizen; and I apprehend that whenever it has happened, that the appointment has been for a leſs period than during good behaviour, this object has not been ſufficiently ſecured—for if every five or ſeven years, the judges are obliged to make court for a re-appointment to office, they cannot be ſtiled independent. This is not the caſe with regard to thoſe appointed under the general government. For the judges here ſhall hold their offices during good behaviour—I hope no further objections will be taken, againſt this part of the conſtitution, the conſequence of which will be, that private property (ſo far as it comes before their courts)—and perſonal liberty, ſo far as it is not forfeited by crimes, will be guarded with firmneſs and watchfulneſs.

It may appear too profeſſional to deſcend into obſervations of this kind, but I believe, that public happineſs, perſonal liberty and private property, depend eſſentially upon the able and upright determinations of independent judges.

Permit me to make one more remark on the ſubject of the judicial department.—Its objects are extended *beyond* the bounds or power of every particular ſtate, and therefore muſt be proper objects of the general government. I do not recollect any inſtance where a caſe can come before the judiciary of the United States, that could poſſibly be de-

termined by a particular ſtate, except one, which is, where citizens of the ſame ſtate claim lands under the grant of different ſtates, and in that inſtance, the power of the two ſtates neceſſarily comes in competition; wherefore there would be great impropriety in having it determined by either.

Sir, I think there is another ſubject with regard to which this conſtitution deſerves approbation.—I mean the *accuracy* with which the *line is drawn* between the powers of the *general government*, and that of the *particular ſtate governments*. We have heard ſome general obſervations on this ſubject, from the gentlemen who conduct the oppoſition. They have aſſerted that theſe powers are unlimited and undefined. Theſe words are as eaſily pronounced as limited and defined. They have already been anſwered by my honorable colleague (Mr. M'Kean) therefore, I ſhall not enter into an explanation; but it is not pretended, that the line is drawn with mathematical preciſion; the inaccuracy of language muſt, to a certain degree, prevent the accompliſhment of ſuch a deſire. Whoever views the matter in a true light, will ſee that the powers are as minutely enumerated and defined as was poſſible, and will alſo diſcover, that the general clauſe, againſt which ſo much exception is taken, is nothing more, than what was neceſſary to render effectual the particular powers that are granted.

But let us ſuppoſe (and the ſuppoſition is very eaſy in the minds of the gentlemen on the other ſide) that there is ſome difficulty in aſcertaining where the true line lies. Are we therefore thrown into deſpair? Are diſputes between the general government, and the ſtate governments, to be neceſſarily the conſequence of inaccuracy? I hope, ſir, they will not be the enemies of each other, or reſemble comets in conflicting orbits mutually operating deſtruction: But that their motion will be better repreſented by that of the planetary ſyſtem, where each part moves harmoniouſly within its proper ſphere, and no injury ariſes by interference or oppoſition. Every part, I truſt, will be conſidered as a part of the United States. Can any cauſe of diſtruſt ariſe here? Is there any increaſe of riſk? or rather are not the enumerated powers as well defined here, as in the preſent articles of confederation?

Permit me to proceed to what I deem another excellency of this ſyſtem—all authority of every kind *is derived by*

REPRESENTATION *from the* PEOPLE, *and the* DEMOCRATIC *principle is carried into every part of the government*. I had an opportunity when I ſpoke firſt of going fully into an elucidation of this ſubject. I mean not now to repeat what I then ſaid.

I proceed to another quality that I think eſtimable in this ſyſtem---*it ſecures in the ſtrongeſt manner the right of ſuffrage*. Monteſquieu, book 2d, ch. 2d, ſpeaking of laws relative to democracy, ſays, "when the body of the people is poſſeſſed of the SUPREME POWER, this is called a *democracy*. When the SUPREME POWER is lodged in the hands of a part of the people, it is then an *ariſtocracy*.

"In a democracy the people are in ſome reſpects the ſovereign, and in others the ſubject.

"There can be no exerciſe of ſovereignty but by their ſuffrages, which are their own will: now, the ſovereign's will is the ſovereign himſelf. The laws, therefore, which eſtabliſh the right of ſuffrage, are fundamental to this government. And indeed it is as important to regulate, in a republic, in what manner, by whom, to whom, and concerning what, ſuffrages are to be given, as it is in a monarchy, to know who is the prince, and after what manner he ought to govern."

In this ſyſtem it is declared, that the electors in each ſtate ſhall have the qualification requiſite for electors of the moſt numerous branch of the ſtate legiſlature. This being made the criterion of the right of ſuffrage, it is conſequently ſecured, becauſe the ſame conſtitution *guarantees*, to every ſtate in the union, a *republican* form of government. The right of ſuffrage is fundamental to republics.

Sir, there is another principle that I beg leave to mention---*Repreſentation and direct taxation*, under this conſtitution, are to be according to numbers. As this is a ſubject which I believe has not been gone into in this houſe, it will be worth while to ſhew the ſentiments of ſome reſpectable writers thereon. Monteſquieu in conſidering the requiſites in a confederate republic, book 9th, ch. 3d, ſpeaking of Holland obſerves, "it is difficult for the United States to be all of equal power and extent. The Lycian * republic was an aſſociation of twenty-three towns; the large ones had three votes in the common council, the middling ones two, and the ſmall towns one. The Dutch

* Strabo, lib. 14.

republic conſiſts of ſeven provinces, of different extent of territory, which have each one voice.

The cities of Lycia ‡ *contributed to the expences of the ſtate, according to the proportion of ſuffrages.* The provinces of the United Netherlands cannot follow this proportion; they muſt be directed by that of their power.

In Lycia § the judges and town magiſtrates were elected by the common council, *and according to the proportion already mentioned.* In the republic of Holland, they are not choſen by the common council, but each town names its magiſtrates. Were I to give a model of an excellent confederate republic, I ſhould pitch upon that of Lycia.

I have endeavoured, in all the books that I could have acceſs to, to acquire ſome information relative to the Lycian republic, but its hiſtory is not to be found; the few facts that relate to it are mentioned only by Strabo; and however excellent the model it might preſent, we were reduced to the neceſſity of working without it: give me leave to quote the ſentiments of another author, whoſe peculiar ſituation and extenſive worth, throws a luſtre on all he ſays, I mean Mr. Neckar, whoſe ideas are very exalted both in theory and practical knowledge on this ſubject. He approaches the neareſt to the truth in his calculations from experience, and it is very remarkable that he makes uſe of that expreſſion; his words are, * "population can therefore be only looked on as an exact meaſure of compariſon, when the provinces have reſources nearly equal; but even this imperfect rule of proportion ought not to be neglected; and of all the objects which may be ſubjected to a determined and poſitive calculation, that of the taxes, to the population, approaches neareſt to the truth."

Another good quality in this conſtitution is, that the members of the *legiſlature cannot hold offices under the authority of this government.* The operation of this I apprehend would be found to be very extenſive, and very ſalutary in this country, to prevent thoſe intrigues, thoſe factions, that corruption, that would otherwiſe riſe here, and have riſen ſo plentiful in every other country. The reaſon why it is neceſſary in England to continue ſuch influence, is that the crown, in order to ſecure its own influence againſt two other branches of the legiſlature, muſt continue to beſtow places,

‡ Strabo. Lib. 14. § Ibid. * Neckar on Finance, Vol. 1. p. 308.

but thoſe *places* produce the oppoſition which frequently runs ſo ſtrong in the Britiſh parliament.

Members who do not enjoy offices, combine againſt thoſe who do enjoy them. It is not from principle, that they thwart the miniſtry in all its operations. No; their language is, let us turn them out and ſucceed to their places.---The great ſource of corruption, in that country, is, that perſons may hold offices under the crown, and ſeats in the legiſlature at the ſame time.

I ſhall conclude at preſent, and I have endeavoured to be as conciſe as poſſible, with mentioning, that in my humble opinion, the powers of the general government are neceſſary, and well defined---that the reſtraints impoſed on it, and thoſe impoſed on the ſtate governments, are rational and ſalutary, and that it is entitled to the approbation of thoſe for whom it was intended.

I recollect, on a former day, the honorable gentleman from Weſtmoreland (Mr. Findley,) and the honorable gentleman from Cumberland (Mr. Whitehill) took exceptions againſt the firſt clauſe of the 9th ſect, art. 1. arguing very unfairly, that becauſe congreſs might impoſe a tax or duty of ten dollars on the importation of ſlaves, within any of the United States, congreſs might therefore permit ſlaves to be imported within this ſtate, contrary to its laws.—I confeſs I little thought that this part of the ſyſtem would be excepted to.

I am ſorry that it could be extended no further; but ſo far as it operates, it preſents us with the pleaſing proſpect, that the rights of mankind will be acknowledged and eſtabliſhed throughout the union.

If there was no other lovely feature in the conſtitution, but this one, it would diffuſe a beauty over its whole countenance. Yet the lapſe of a few years! and congreſs will have power to exterminate ſlavery from within our borders.

How would ſuch a delightful proſpect expand the breaſt of a benevolent and philanthropic European? Would he cavil at an expreſſion? catch at a phraſe? No, ſir, that is only reſerved for the gentleman on the other ſide of your chair to do. What would be the exultation of that great man, whoſe name I have juſt now mentioned, we may learn from the following ſentiments on this ſubject: They cannot be expreſſed ſo well as in his own words. *

* Vol. 1. page 329.

"The colonies of France contain as we have ſeen, near "five hundred thouſand ſlaves, and it is from the number of "theſe wretches, that the inhabitants ſet a value on their "plantations. What a fatal proſpect! and how profound "a ſubject for reflection! Alas! how inconſequent we are, "both in our morality, and our principles. We preach up "humanity, and yet go every year to bind in chains twenty "thouſand natives of Africa! We call the Moors barbarians "and ruffians, becauſe they attack the liberty of Europeans, "at the riſque of their own; yet theſe Europeans go, with- "out danger, and as mere ſpeculators, to purchaſe ſlaves, by "by gratifying the cupidity of their maſters; and excite all "thoſe bloody ſcenes which are the uſual preliminaries of "this traffic! in ſhort, we pride ourſelves on the ſuperiority of "man, and it is with reaſon that we diſcover this ſuperiority, "in the wonderful and myſterious unfolding of the intellectu- "al faculties; and yet a trifling difference in the hair of the "head, or in the colour of the epidermis, is ſufficient to "change our reſpect into contempt, and to engage us to "place beings like ourſelves, in the rank of thoſe animals "devoid of reaſon, whom we ſubject to the yoke; that we "may make uſe of their ſtrength, and of their inſtinct, at "command.

"I am ſenſible, and I grieve at it, that theſe reflections "which others have made much better than me, are unfortu- "nately of very little uſe! The neceſſity of ſupporting ſove- "reign power has its peculiar laws, and the wealth of nations "is one of the foundations of this power: thus the ſovereign "who ſhould be the moſt thoroughly convinced of what is "due to humanity, would not ſingly renounce the ſervice of "ſlaves in his colonies; time alone could furniſh a population "of free people to re-place them, and the great difference "that would exiſt in the price of labour, would give ſo "great an advantage to the nation that ſhould adhere to the "old cuſtom, that the others would ſoon be diſcouraged in "wiſhing to be more virtuous. And yet, would it be a "chimerical project to propoſe a general compact, by which "all the European nations ſhould unanimouſly agree to a- "bandon the traffic of African ſlaves! they would in that "caſe, find themſelves exactly in the ſame proportion rela- "tive to each other as at preſent; for it is only on compa- "rative riches that the calculations of power are founded.

"We cannot as yet indulge ſuch hopes; ſtateſmen in

" general, think that every common idea muſt be a low one; " and ſince the morals of private people ſtand in need of " being curbed, and maintained by the laws, we ought not " to wonder, if thoſe of ſovereigns conform to their inde- " pendence.

" The time may nevertheleſs arrive, when, fatigued of " that ambition which agitates them, and of the continual " rotation of the ſame anxieties, and the ſame plans, they " may turn their views to the great principles of humanity; " and if the preſent generation is to be witneſs of this hap- " py revolution, they may at leaſt be allowed to be unani- " mous in offering up their vows for the perfection of the " ſocial virtues, and for the progreſs of public beneficial in- " ſtitutions," theſe are the enlarged ſentiments of that great man.

Permit me to make a ſingle obſervation in this place on the reſtraints placed on the ſtate governments; if only the following lines were inſerted in this conſtitution, I think it would be worth our adoption. "No ſtate ſhall hereafter *emit bills of credit*;—make any thing, but gold and ſilver coin, a *tender* in payment of debts; paſs any bills of attainder; ex poſt facto law; *or law impairing the obligation of contracts*.—Fatal experience has taught us, dearly taught us! the value of theſe reſtraints.—What is the conſequence even at this moment? it is true we have no tender law in Pennſylvania; but the moment you are conveyed acroſs the Delaware you find it haunt your journey and follow cloſe upon your heels.—The paper paſſes commonly at twenty five or thirty per cent. diſcount; how inſecure is property!

Theſe are a few of thoſe properties in this ſyſtem, that I think recommend it to our ſerious attention, and will entitle it to receive the adoption of the United States. Others might be enumerated, and others ſtill will probably be diſcloſed by experience.

FRIDAY, DECEMBER 7, 1787, A. M.

MR. WILSON.

This is the firſt time that the article reſpecting the judicial department, has come directly before us. I ſhall therefore take the liberty of making ſuch obſervations, as will enable honorable gentlemen to ſee the extent of the views

of the convention in forming this article, and the extent of its probable operation.

This will ennable gentlemen to bring before this houſe their objections more pointedly, than, without any explanation, could be done. Upon a diſtinct examination of the different powers, I preſume it will be found, that not one of them is unneceſſary. I will go further—there is not one of them but will be diſcovered to be of ſuch nature, as to be attended with very important advantages. I ſhall beg leave to premiſe one remark, that the convention, when they formed this ſyſtem, did not expect they were to deliver themſelves, their relations and their poſterity, into the hands of ſuch men, as are deſcribed by the honorable gentlemen in oppoſition. They did not ſuppoſe that the legiſlature, under this conſtitution, would be an *aſſociation of dæmons*: They thought that a proper attention would be given by the citizens of the United States, at the general election, for members to the houſe of repreſentatives; they alſo believed, that the particular ſtates would nominate as good men as they have heretofore done, to repreſent them in the ſenate. If they ſhould now do otherwiſe, the fault will not be in congreſs, but in the people, or ſtates themſelves. I have mentioned oftener than once, that for a people wanting to themſelves, there is no remedy.

The convention thought further (for on this very ſubject, there will appear caution, inſtead of imprudence in their tranſactions) they conſidered, that if ſuſpicions are to be entertained, they are to be entertained with regard to the objects in which government have ſeparate intereſts and ſeparate views, from the intereſts and views of the people. To ſay that officers of government will oppreſs, when nothing can be got by oppreſſion, is making an inferrence, bad as human nature is, that cannot be allowed. When perſons can derive no advantage from it, it can never be expected they will ſacrifice either their duty or their popularity.

Whenever the general government can be a party againſt a citizen, the trial is guarded and ſecured in the conſtitution itſelf, and therefore it is not in its power to oppreſs the citizen. In the caſe of treaſon, for example, though the proſecution is on the part of the United States, yet the congreſs can neither define nor try the crime. If we have recourſe to the hiſtory of the different governments that have hitherto ſubſiſted, we ſhall find that a very great part of their

tyranny over the people, has arisen from the extension of the definition of treason. Some very remarkable instances have occurred, even in so free a country as England. If I recollect right, there is one instance that puts this matter in a very strong point of view. A person possessed a favorite buck, and on finding it killed, wished the horns in the belly of the person who killed it; this happened to be the king; the injured complainant was tried and convicted of treason, for wishing the king's death.

I speak only of free governments, for in despotic ones, treason depends entirely upon the will of the prince. Let this subject be attended to, and it will be discovered where the dangerous power of the government operates to the oppression of the people. Sensible of this, the convention has guarded the people against it, by a particular and accurate definition of treason.

It is very true, that trial by jury is not mentioned in civil cases; but I take it, that it is very improper to infer from hence, that it was not meant to exist under this government. Where the people are represented—where the interest of government cannot be separate from that of the people, (and this is the case in trial between citizen and citizen) the power of making regulations with respect to the mode of trial, may certainly be placed in the legislature; for I apprehend that the legislature will not do wrong in an instance, from which they can derive no advantage. These were not all the reasons that influenced the convention to leave it to the future congress to make regulations on this head.

By the constitution of the different states, it will be found that no particular mode of trial by jury could be discovered that would suit them all. The manner of summoning jurors, their qualifications, of whom they should consist, and the course of their proceedings, are all different, in the different states; and I presume it will be allowed a good general principle, that in carrying into effect the laws of the general government by the judicial department, it will be proper to make the regulations as agreeable to the habits and wishes of the particular states as possible; and it is easily discovered that it would have been impracticable, by any general regulation, to have given satisfaction to all. We must have thwarted the custom of eleven or twelve to have accommodated any one. Why do this, when there was no danger to be apprehended from the omission? We could not go into

a particular detail of the manner that would have fuited each ſtate.

Time, reflection and experience, will be neceſſary to ſuggeſt and mature the proper regulations on this ſubject; time and experience were not poſſeſſed by the convention, they left it therefore to be particularly organized by the legiſlature—the repreſentatives of the United States, from time to time, as ſhould be moſt eligible and proper. Could they have done better?

I know in every part, where oppoſition has riſen, what a handle has been made of this objection; but I truſt upon examination it will be ſeen that more could not have been done with propriety. Gentlemen talk of bills of rights! What is the meaning of this continual clamour, after what has been urged, though it may be proper in a ſingle ſtate, whoſe legiſlature calls itſelf the ſovereign and ſupreme power? yet it would be abſurd in the body of the people, when they are delegating from among themſelves perſons to tranſact certain buſineſs, to add an enumeration of thoſe things, which they are not to do. "But trial by jury is ſecured in the bill of rights of Pennſylvania; the parties have a right to trials by jury, which OUGHT to be held ſacred," and what is the conſequence? There has been more violations of this right in Pennſylvania, ſince the revolution, than are to be found in England, in the courſe of a century.

I hear no objection made to the tenure by which the judges hold their offices. It is declared that the judges ſhall hold them during good behaviour; nor to the ſecurity which they will have for their ſalaries. They ſhall at ſtated times receive for their ſervices, a compenſation which ſhall not be diminiſhed during their continuance in office.

The article reſpecting the judicial department, is objected to as going too far, and is ſuppoſed to carry a very indefinite meaning. Let us examine this—the judicial power ſhall extend to all caſes in law and equity, *ariſing under this conſtitution and the laws of the United States.* Controverſies may certainly ariſe under this conſtitution and the laws of the United ſtates, and is it not proper that there ſhould be judges to decide them? The honorable gentleman from Cumberland (Mr. Whitehill) ſays, that laws may be made inconſiſtent with the conſtitution; and that therefore the powers given to the judges, are dangerous; for my part, Mr. Preſident, I think the contrary inference true.

If a law ſhould be made inconſiſtent with thoſe powers veſted by this inſtrument in congreſs, the judges, as a conſequence of their independence, and the particular powers of government being defined, will declare ſuch law to be null and void. For the power of the conſtitution predominates. Any thing therefore, that ſhall be enacted by congreſs contrary thereto, will not have the force of law.

The judicial power extends to all caſes ariſing under treaties made, or which ſhall be made, by the United States. I ſhall not repeat, at this time, what has been ſaid with regard to the power of the ſtates to make treaties; it cannot be controverted, that when made, they ought to be obſerved. But it is highly proper that this regulation ſhould be made; for the truth is, and I am ſorry to ſay it, that in order to prevent the payment of Britiſh debts, and from other cauſes, our treaties have been violated, and violated too by the expreſs laws of ſeveral ſtates in the union. Pennſylvania, to her honor be it ſpoken, has hitherto done no act of this kind; but it is acknowledged, on all ſides, that many ſtates in the union have infringed the treaty; and it is well known, that when the miniſter of the United States made a demand of Lord Carmarthen, of a ſurrender of the weſtern poſts, he told the miniſter, with truth and juſtice, "The treaty, under "which you claim thoſe poſſeſſions, has not been performed "on your part: Until that is done, thoſe poſſeſſions will not "be delivered up." This clauſe, ſir, will ſhew the world, that we make the faith of treaties a conſtitutional part of the character of the United States; that we ſecure its performance no longer nominally, for the judges of the United States will be enabled to carry them into effect, let the legiſlatures of the different ſtates do what they may.

The power of the judges extends to all caſes affecting ambaſſadors, other public miniſters and conſuls. I preſume very little objection will be offered to this clauſe; on the contrary, it will be allowed proper and unexceptionable.

This will alſo be allowed with regard to the following clauſe, "all caſes of admiralty and maritime juriſdiction."

The next is "to controverſies to which the United States "ſhall be a party." Now I apprehend it is ſomething very incongruous, that, becauſe the United States are a party, it ſhould be urged, as an objection, that their judges ought not to decide, when the univerſal practice of all nations have and unavoidably muſt admit of this power. But ſay the gentle-

men, the ſovereignty of the ſtates is deſtroyed, if they ſhould be engaged in a controverſy with the United States, becauſe a ſuitor in a court muſt acknowledge the juriſdiction of that court, and it is not the cuſtom of ſovereigns to ſuffer their names to be made uſe of in this manner. The anſwer is plain and eaſy: The government of each ſtate ought to be ſubordinate to the government of the United States.

"To controverſies between two or more ſtates:" This power is veſted in the preſent congreſs, but they are unable, as I have already ſhewn, to enforce their deciſions. The additional power of carrying their decrees into execution, we find is therefore neceſſary, and I preſume no exception will be taken to it.

"Between a ſtate, and citizens of another ſtate:" When this power is attended to, it will be found to be a neceſſary one. Impartiality is the leading feature in this conſtitution; it pervades the whole. When a citizen has a controverſy with another ſtate, there ought to be a tribunal, where both parties may ſtand on a juſt and equal footing.

"Between citizens of different ſtates, and between a ſtate, "or the citizens thereof, and foreign ſtates, citizens or ſub-"jects:" This part of the juriſdiction, I preſume, will occaſion more doubt than any other part, and at *firſt view* it may ſeem expoſed to objections well-founded and of great weight; but I apprehend this can be the caſe only *at firſt view*. Permit me to obſerve here, with regard to this power, or any other of the foregoing powers given to the fœderal court, that they are not excluſively given. In all inſtances the parties may commence ſuits in the courts of the ſeveral ſtates. Even the United States may ſubmit to ſuch deciſion if they think proper. Though the citizens of a ſtate, and the citizens or ſubjects of foreign ſtates, *may* ſue in the fœderal court, it does not follow that they *muſt* ſue. Theſe are the inſtances in which the juriſdiction of the United States may be exerciſed; and we have all the reaſon in the world to believe, that it will be exerciſed impartially; for it would be improper to infer, that the judges would abandon their duty, the rather for being independent. Such a ſentiment is contrary to experience, and ought not to be hazarded. If the people of the United States are fairly repreſented, and the preſident and ſenate are wiſe enough to chooſe men of abilities and integrity for judges, there can be no apprehen-

ſion ; becauſe, as I mentioned before, the government can have no intereſt in injuring the citizens.

But when we conſider the matter a little further, is it not neceſſary, if we mean to reſtore either public or private credit, that foreigners, as well as ourſelves, have a juſt and impartial tribunal to which they may reſort? I would aſk, how a merchant muſt feel to have his property lay at the mercy of the laws of Rhode-Iſland? I aſk further, how will a creditor feel, who has his debts at the mercy of tender laws in other ſtates? It is true, that under this conſtitution, theſe particular iniquities may be reſtrained in future ; but ſir, there are other ways of avoiding payment of debts. There have been inſtalment acts, and other acts of a ſimilar effect. Such things, ſir, deſtroy the very ſources of credit.

Is it not an important object to extend our manufactures and our commerce? This cannot be done, unleſs a proper ſecurity is provided for the regular diſcharge of contracts. This ſecurity cannot be obtained, unleſs we give the power of deciding upon thoſe contracts to the general governments.

I will mention further, an object that I take to be of particular magnitude, and I conceive theſe regulations will produce its accompliſhment. The object, Mr. Preſident, that I allude to, is the improvement of our domeſtic navigation, the inſtrument of trade between the ſeveral ſtates. That decay of private credit which aroſe from the deſtruction of public credit, by a too inefficient general government, will be reſtored, and this valuable intercourſe among ourſelves, muſt give an encreaſe to thoſe uſeful improvements, that will aſtoniſh the world. At preſent, how are we circumſtanced! Merchants of eminence will tell you, that they can truſt their correſpondents without law ; but they cannot truſt the laws of the ſtate in which their correſpondents live. Their friend may die, and may be ſucceeded by a repreſentative of a very different character. If there is any particular objection that did not occur to me on this part of the conſtitution, gentlemen will mention it ; and I hope when this article is examined, it will be found to contain nothing but what is proper to be annexed to the general government. The next clauſe, ſo far as it gives original juriſdiction in caſes affecting ambaſſadors, I apprehend is perfectly unexceptionable.

It was thought proper to give the citizens of foreign ſtates full opportunity of obtaining juſtice in the general courts, and this they have by its appellate juriſdiction ; therefore, in

order to reſtore credit with thoſe foreign ſtates, that part of the article is neceſſary. I believe the alteration that will take place in their minds, when they learn the operation of this clauſe, will be a great and important advantage to our country, nor is it any thing but juſtice; they ought to have the ſame ſecurity againſt the ſtate laws that may be made, that the citizens have; becauſe regulations ought to be equally juſt in the one caſe as in the other. Further, it is neceſſary, in order to preſerve peace with foreign nations. Let us ſuppoſe the caſe, that a wicked law is made in ſome one of the ſtates, enabling a debtor to pay his creditor with the fourth, fifth, or ſixth part of the real value of the debt, and this creditor, a foreigner, complains to his prince or ſovereign, of the injuſtice that has been done him: What can that prince or ſovereign do? bound by inclination as well as duty to redreſs the wrong his ſubject ſuſtains from the hand of perfidy, he cannot apply to the particular guilty ſtate, becauſe he knows that by the articles of confederation, it is declared that no ſtate ſhall enter into treaties. He muſt therefore apply to the United States: The United States muſt be accountable: "My ſubject has received a flagrant injury; do me juſtice, or I will do myſelf juſtice." If the United States are anſwerable for the injury, ought they not to poſſeſs the means of compelling the faulty ſtate to repair it? They ought, and this is what is done here. For now, if complaint is made in conſequence of ſuch injuſtice, congreſs can anſwer, "why did not your ſubject apply to the general court, where the unequal and partial laws of a particular ſtate would have had no force?"

In two caſes the ſupreme court has original juriſdiction; that affecting ambaſſadors, and when a ſtate ſhall be a party. It is true, it has appellate juriſdiction in more, but it will have it under ſuch reſtrictions as the congreſs ſhall ordain. I believe than any gentleman, poſſeſſed of experience or knowledge on this ſubject, will agree that it was impoſſible to go further with any ſafety or propriety, and that it was beſt left in the manner in which it now ſtands.

"In all the other caſes before mentioned, the ſupreme court ſhall have appellate juriſdiction, both as to law and fact." The juriſdiction as to fact, may be thought improper, but thoſe poſſeſſed of information on this head, ſee that it is neceſſary. We find it eſſentially neceſſary from the ample experience we have had in the courts of admiralty

with regard to captures. Thoſe gentlemen, who during the late war, had their veſſels retaken, know well what a poor chance they would have had, when thoſe veſſels were taken into other ſtates and tried by juries, and in what a ſituation they would have been, if the court of appeals had not been poſſeſſed of authority to reconſider and ſet aſide the verdict of thoſe juries. Attempts were made by ſome of the ſtates to deſtroy this power, but it has been confirmed in every inſtance.

There are other caſes in which it will be neceſſary; and will not congreſs better regulate them as they riſe from time to time, than could have been done by the convention? Beſides, if the regulations ſhall be attended with inconvenience, the congreſs can alter them as ſoon as diſcovered. But any thing done in convention, muſt remain unalterable, but by the power of the citizens of the United States at large.

I think theſe reaſons will ſhew, that the powers given to the ſupreme court, are not only ſafe, but conſtitute a wiſe and valuable part of this ſyſtem.

TUESDAY, DECEMBER 11, 1787, A. M.

MR. WILSON.

Three weeks have now elapſed ſince this convention met: Some of the delegates attended on Tueſday the 20th November; a great majority within a day or two afterwards, and all but one on the 4th day. We have been ſince employed in diſcuſſing the buſineſs for which we are ſent here. I think it will now become evident to every perſon who takes a candid view of our diſcuſſions, that it is high time our proceedings ſhould draw towards a concluſion. Perhaps our debates have already continued as long, nay, longer than is ſufficient for every good purpoſe. The buſineſs which we were intended to perform, is neceſſarily reduced to a very narrow compaſs. The ſingle queſtion to be determined is, ſhall we aſſent to and ratify the conſtitution propoſed?

As this is the firſt ſtate whoſe convention has met on the ſubject, and as the ſubject itſelf is of very great importance not only to Pennſylvania, but to the United States, it was thought proper, fairly, openly and candidly, to canvaſs it. This has been done. You have heard, Mr. Preſident, from day to day, and from week to week, the objections that

could be offered from any quarter. We have heard thoſe objections once—we have heard a great number of them repeated much oftener than once. Will it anſwer any valuable end, ſir, to protract theſe debates longer? I ſuppoſe it will not. I apprehend it may ſerve to promote very pernicious and deſtructive purpoſes. It may perhaps be inſinuated to other ſtates, and even to diſtant parts of this ſtate, by people in oppoſition to this ſyſtem, that the expediency of adopting, is at moſt very doubtful, and that the buſineſs labours among the members of the convention.

This would not be a true repreſentation of the fact; for there is the greateſt reaſon to believe, that there is a very conſiderable majority, who do not heſitate to ratify the conſtitution. We were ſent here to expreſs the voice of our conſtituents on the ſubject, and I believe that many of them expected to hear the echo of that voice before this time.

When I conſider the attempts that have been made on this floor, and the many miſrepreſentations of what has been ſaid among us that have appeared in the public papers, printed in this city, I confeſs that I am induced to ſuſpect that opportunity may be taken to pervert and abuſe the principles on which the friends of this conſtitution act. If attempts are made here, will they not be repeated when the diſtance is greater, and the means of information fewer? Will they not at length produce an uneaſineſs, for which there is, in fact, no cauſe? Ought we not to prohibit any ſuch uſes being made of the continuance of our deliberations? We do not wiſh to preclude debate—of this our conduct has furniſhed the moſt ample teſtimony. The members in oppoſition have not been prevented a repetition of all their objections, that they could urge againſt this plan.

The honorable gentleman from Fayette (Mr. Smilie) the other evening claimed for the minority, the merit of contending for the rights of mankind; and he told us, that it has been the practice of all ages, to treat ſuch minorities with contempt: he further took the liberty of obſerving, that if the majority had the power, they do not want the inclination to conſign the minority to puniſhment. I know that claims, ſelf-made, form no ſmall part of the merit, to which we have heard undiſguiſed pretences; but it is one thing to claim, and it is another thing, very different indeed, to ſupport that claim. The minority, ſir, are contending for the rights of mankind; what then are the majority con-

tending for? If the minority are contending for the rights of mankind, the majority muſt be contending for the doctrines of tyranny and ſlavery. Is it probable that that is the caſe? Who are the majority in this aſſembly? Are they not the people? are they not the repreſentatives of the people, as well as the minority? Were they not elected by the people as well as by the minority? Were they not elected by the greater part of the people? Have we a ſingle right ſeparate from the rights of the people? Can we forge fetters for others, that will not be claſped round our own limbs? Can we make heavy chains, that ſhall not cramp the growth of our own poſterity? On what fancied diſtinction ſhall the minority aſſume to themſelves the merit of contending for the rights of mankind?

Sir, if the ſyſtem propoſed by the late convention, and the conduct of its advocates, who have appeared in this houſe, deſerve the declarations and inſinuations that have been made concerning them—well may we exclaim—Ill fated America! thy criſis was approaching! perhaps it was come! Thy various intereſts were neglected—thy moſt ſacred rights were inſecure. Without a government! without energy! without confidence internally! without reſpect externally! the advantages of ſociety were loſt to thee! In ſuch a ſituation, diſtreſſed but not deſpairing, thou deſiredſt to re-aſſume thy native vigour, and to lay the foundation of future empire! Thou ſelectedſt a number of thy ſons, to meet together for the purpoſe. The ſelected and honored characters met; but horrid to tell! they not only conſented, but they combined in an ariſtocratic ſyſtem, calculated and intended to enſlave their country! Unhappy Pennſylvania! thou, as a part of the union, muſt ſhare in its unfortunate fate! for when this ſyſtem, after being laid before thy citizens, comes before the delegates ſelected by you for its conſideration, there are found but three of the numerous members that have virtue enough to raiſe their voices in ſuppert of the rights of mankind! America, particularly Pennſylvania, muſt be ill ſtarred indeed, if this is a true ſtate of the caſe! I truſt we may addreſs our country in far other language.

Happy America! thy criſis was indeed alarming, but thy ſituation was not deſperate. We had confidence in our country; though on which ever ſide we turned, we were preſented with ſcenes of diſtreſs. Though the jarring intereſts of the various ſtates, and the different habits and in-

clinations of their inhabitants, all lay in the way, and rendered our proſpect gloomy, and diſcouraging indeed, yet ſuch were the generous and mutual ſacrifices offered up, that amidſt forty two members, who repreſented twelve of the United States, there were only three who did not atteſt the inſtrument as a confirmation of its goodneſs—happy Pennſylvania! this plan has been laid before thy citizens for conſideration, they have ſent delegates to expreſs their voice; and liſten, with rapture liſten! from only three oppoſition has been heard againſt it.

The ſingular unanimity that has attended the whole progreſs of their buſineſs, will in the minds of thoſe conſiderate men, who have not had opportunity to examine the general and particular intereſt of their country, prove to their ſatisfaction, that it is an excellent conſtitution, and worthy to be adopted, ordained and eſtabliſhed by the people of the United States.

After having viewed the arguments drawn from *probability*, whether this is a good or a bad ſyſtem, whether thoſe who contend for it, or thoſe who contend againſt it, contend for the rights of mankind, let us ſtep forward and examine the *fact*.

We were told ſome days ago, by the honorable gentleman from Weſtmoreland (Mr. Findley) when ſpeaking of this ſyſtem and its objects, that the convention, no doubt, thought they were forming a compact or contract of the greateſt importance. Sir, I confeſs I was much ſurpriſed at ſo late a ſtage of the debate, to hear ſuch principles maintained. It was matter of ſurpriſe to ſee the great leading principle of this ſyſtem, ſtill ſo very much miſunderſtood. "The convention, no doubt, thought they were forming "a contract!" I cannot anſwer for what every member thought; but I believe it cannot be ſaid, that they thought they were making a contract, becauſe I cannot diſcover the leaſt trace of a compact in that ſyſtem. There can be no compact unleſs there are more parties than one. It is a new doctrine, that one can make a compact with himſelf. "The convention were forming compacts!" With whom? I know no bargains that were made there. I am unable to conceive who the parties could be. The ſtate governments make a bargain with one another; that is the doctrine that is endeavoured to be eſtabliſhed, by gentlemen in oppoſition, their ſtate ſovereignties wiſh to be repreſented! But ſar

other were the ideas of the convention, and far other are thoſe conveyed in the ſyſtem itſelf.

As this ſubject has been often mentioned and as often miſunderſtood, it may not be improper to take ſome further notice of it. This, Mr. Preſident, is not a government founded upon compact; it is founded upon the power of the people. They expreſs in their name and their authority, "*We the People do ordain and eſtabliſh,*" &c. from their ratification, and their ratification alone, it is to take its conſtitutional authenticity; without that, it is no more than *tabula raſa*.

I know very well all the common-place rant of ſtate ſovereignties, and that government is founded in original compact. If that poſition was examined, it will be found not to acceed very well with the true principle of free government. It does not ſuit the language or genius of the ſyſtem before us. I think it does not accord with experience, ſo far as I have been able to obtain information from hiſtory.

The greateſt part of government have been founded on conqueſt; perhaps a few early ones may have had their origin in paternal authority. Sometimes a family united, and that family afterwards extended itſelf into a community. But the greateſt governments which have appeared on the face of the globe, have been founded in conqueſt. The great empires of Aſſyria, Perſia, Macedonia and Rome, were all of this kind. I know well that in Great-Britain, ſince the revolution, it has become a principle, that the conſtitution is founded in contract; but the form and time of that contract, no writer has yet attempted to diſcover. It was however recogniſed at the time of the revolution, therefore is politically true. But we ſhould act very imprudently to conſider our liberties as placed on ſuch foundation.

If we go a little further on this ſubject, I think we ſee that the doctrine of original compact, cannot be ſupported conſiſtently with the beſt principles of government. If we admit it, we exclude the idea of amendment; becauſe a contract once entered into between the governor and governed, becomes obligatory, and cannot be altered but by the mutual conſent of both parties. The citizens of United America, I preſume do not wiſh to ſtand on that footing, with thoſe to whom, from convenience, they pleaſe to delegate the exerciſe of the general powers neceſſary for ſuſtaining and

preſerving the union. They wiſh a principle eſtabliſhed, by the operation of which the legiſlatures may feel the direct authority of the people. The people poſſeſſing that authority, will continue to exerciſe it by amending and improving their own work. This conſtitution may be found to have defects in it; amendments hence may become neceſſary; but the idea of a government founded on contract, deſtroys the means of improvement. We hear it every time the gentlemen are up, "ſhall we violate the confederation, which directs every alteration that is thought neceſſary to be eſtabliſhed by the ſtate legiſlatures only." Sir, thoſe gentlemen muſt aſcend to a higher ſource; the people fetter themſelves by no contract. If your ſtate legiſlatures have cramped themſelves by compact, it was done without the authority of the people, who alone poſſeſs the ſupreme power.

I have already ſhewn, that this ſyſtem is not a compact or contract; the ſyſtem itſelf tells you what it is; it is an ordinance and eſtabliſhment of the people. I think that the force of the introduction to the work, muſt by this time have been felt. It is not an unmeaning flouriſh. The expreſſions declare, in a practical manner, the principle of this conſtitution. It is ordained and eſtabliſhed by the people themſelves; and we, who give our votes for it, are merely the proxies of our conſtituents. We ſign it as their attornies, and as to ourſelves, we agree to it as individuals.

We are told by honorable gentlemen in oppoſition, "that the preſent confederation ſhould have been continued, but that additional powers ſhould have been given to it: That ſuch was the buſineſs of the late convention, and that they had aſſumed to themſelves, the power of propoſing another in its ſtead; and that which is propoſed, is ſuch an one as was not expected by the legiſlatures nor by the people. I apprehend this would have been a very inſecure, very inadequate, and a very pernicious mode of proceeding. Under the preſent confederation, congreſs certainly do not poſſeſs ſufficient power; but one body of men we know they are; and were they inveſted with additional powers, they muſt become dangerous. Did not the honorable gentleman himſelf tell us, that the powers of government, veſted either in one man, or one body of men, formed the very deſcription of tyranny? To have placed in the preſent, the legiſlative,

the executive and judicial authority, all of which are eſſential to the general government, would indubitably have produced the ſevereſt deſpotiſm. From this ſhort deduction, one of theſe two things muſt have appeared to the convention, and muſt appear to every man, who is at the pains of thinking on the ſubject. It was indiſpenſably neceſſary, either to make a new diſtribution of the powers of government, or to give ſuch powers to one body of men, as would conſtitute a tyranny. If it was proper to avoid tyranny, it becomes requiſite to avoid placing additional powers in the hands of a congreſs, conſtituted like the preſent; hence the concluſion is warranted, that a different organization ought to take place.

Our next enquiry ought to be, whether this is the moſt proper diſpoſition and organization of the neceſſary powers. But before I conſider this ſubject, I think it proper to notice one ſentiment, expreſſed by an honorable gentleman from the county of Cumberland (Mr. Whitehill;) he aſſerts the extent of the government is too great, and this ſyſtem cannot be executed. What is the conſequence, if this aſſertion is true? It ſtrikes directly at the root of the union.

I admit, Mr. Preſident, there are great difficulties in adopting a ſyſtem of good and free governments to the extent of our country. But I am ſure that our intereſts as citizens, as ſtates and as a nation, depend eſſentially upon an union. This conſtitution is propoſed to accompliſh that great and deſirable end. Let the experiment be made; let the ſyſtem be fairly and candidly tried, before it is determined that it cannot be executed.

I proceed to another objection; for I mean to anſwer thoſe that have been ſuggeſted, ſince I had the honor of addreſſing you laſt week. It has been alleged by honorable gentlemen, that this general government poſſeſſes powers, for *internal* purpoſes, and that the general government cannot exerciſe internal powers. The honorable member from Weſtmoreland (Mr. Findley) dilates on this ſubject, and inſtances the oppoſition that was made by the colonies againſt Great-Britain, to prevent her impoſing internal taxes or exciſes. And before the fœderal government will be able to impoſe the one, or obtain the other, he conſiders it neceſſary that it ſhould poſſeſs power for every internal purpoſe.

Let us examine theſe objections; if this government does not poſſeſs internal as well as external power, and that pow-

er for internal as well as external purpoſes, I apprehend, that all that has hitherto been done, muſt go for nothing. I apprehend a government that cannot anſwer the pupoſes for which it is intended, is not a government for this country. I know that congreſs, under the preſent articles of confederation, poſſeſs no internal power, and we ſee the conſequences; they can recommend; they can go further, they can make requiſitions, but there they muſt ſtop. For as far as I recollect, after making a law, they cannot take a ſingle ſtep towards carrying it into execution. I believe it will be found in experience, that with regard to the exerciſe of internal powers, the general government will not be unneceſſarily rigourous. The future collection of the duties and impoſts, will, in the opinion of ſome, ſupercede the neceſſity of having recourſe to internal taxation. The United States will not, perhaps, be often under the neceſſity of uſing this power at all; but if they ſhould, it will be exerciſed only in a moderate degree. The good ſenſe of the citizens of the United States, is not to be alarmed by the picture of taxes collected at the point of the bayonet. There is no more reaſon to ſuppoſe, that the delegates and repreſentatives in congreſs, any more than the legiſlature of Pennſylvania, or any other ſtate, will act in this manner. Inſinuations of this kind, made againſt one body of men, and not againſt another, though both the repreſentatives of the people, are not made with propriety, nor will they have the weight of argument. I apprehend the greateſt part of the revenne will ariſe from external taxation. But certainly it would have been very unwiſe in the late convention to have omitted the addition of the other powers; and I think it would be very unwiſe in this convention, to refuſe to adopt this conſtitution, becauſe it grants congreſs power to lay and collect taxes, for the purpoſe of providing for the common defence and general welfare of the United States.

What is to be done to effect theſe great purpoſes, if an impoſt ſhould be found inſufficient? Suppoſe a war was ſuddenly declared againſt us by a foreign power, poſſeſſed of a formidable navy, our navigation would be laid proſtrate, our impoſts muſt ceaſe; and ſhall our exiſtence as a nation, depend upon the peaceful navigation of our ſeas? A ſtrong exertion of maratime power, on the part of an enemy, might deprive us of theſe ſources of revenue in a few months. It may ſuit honorable gentlemen, who live at the weſtern

extremity of this ſtate, that they ſhould contribute nothing, by internal taxes, to the ſupport of the general government. They care not what reſtraints are laid upon our commerce; for what is the commerce of Philadelphia to the inhabitants on the other ſide the Alleghany Mountain? But though it may ſuit them, it does not ſuit thoſe in the lower part of the ſtate, who are by far the moſt numerous. Nor can we agree that our ſafety ſhould depend altogether upon a revenue ariſing from commerce.

Exciſe may be a neceſſary mode of taxation; it takes place in moſt ſtates already.

The capitation tax is mentioned as one of thoſe that are exceptionable. In ſome ſtates, that mode of taxation is uſed; but I believe in many, it would be received with great reluctance; there are one or two ſtates, where it is conſtantly in uſe, and without any difficulties and inconveniences ariſing from it. An exciſe, in its very principles, is an improper tax, if it could be avoided; but yet it has been a ſource of revenue in Pennſylvania, both before the revolution and ſince; during all which time, we have enjoyed the benefit of free government.

I preſume, ſir, that the executive powers of government ought to be commenſurate with the government itſelf, and that a government which cannot act in every part, is ſo far defective. Conſequently it is neceſſary, that congreſs poſſeſs powers to tax internally, as well as externally.

It is objected to this ſyſtem, that under it there is no ſovereignty left in the ſtate governments. I have had occaſion to reply to this already; but I ſhould be very glad to know at what period the ſtate governments became poſſeſſed of the ſupreme power. On the principle on which I found my arguments, and that is the principle of this conſtitution, the ſupreme power reſides in the people. If they chuſe to indulge a part of their ſovereign power to be exerciſed by the ſtate governments, they may. If they have done it, the ſtates were right in exerciſing it; but if they think it no longer ſafe or convenient, they will reſume it, or make a new diſtribution, more likely to be productive of that good, which ought to be our conſtant aim.

The power both of the general government, and the ſtate governments, under this ſyſtem, are acknowledged to be ſo many emanations of power from the people. The great object now to be attended to, inſtead of diſagreeing about

who ſhall poſſeſs the ſupreme power, is to conſider whether the preſent arrangement is well calculated to promote and ſecure the tranquillity and happineſs of our common country. Theſe are the dictates of ſound and unſophiſticated ſenſe, and what ought to employ the attention and judgment of this honorable body.

We are next told, by the honorable gentlemen in oppoſition (as indeed we have been from the beginning of the debates in this convention, to the concluſion of their ſpeeches yeſterday) that this is a conſolidated government, and will aboliſh the ſtate governments. Definitions of a conſolidated government have been called for; the gentlemen gave us what they termed definition, but it does not ſeem, to me at leaſt, that they have as yet expreſſed clear ideas upon that ſubject. I will endeavour to ſtate their different ideas upon this point. The gentleman from Weſtmoreland (Mr. Findley) when ſpeaking on this ſubject, ſays, that he means by a conſolidation, that government which puts the thirteen ſtates into one.

The honorable gentleman from Fayette (Mr. Smilie) gives you this definition: "What I mean by a conſolidated government, is one that will transfer the ſovereignty from the ſtate governments, to the general government.

The honorable member from Cumberland (Mr. Whitehill) inſtead of giving you a definition, ſir, tells you again, that "it is a conſolidated government, and we have proved it ſo."

Theſe, I think, ſir, are the different deſcriptions given us of a conſolidated government. As to the firſt, that it is a conſolidated government, that puts the thirteen United States into one; if it is meant, that the general government will deſtroy the governments of the ſtates, I will admit that ſuch a government would not ſuit the people of America: It would be improper for *this* country, becauſe it could not be proportioned to *its extent* on the principles of freedom. But that deſcription does not apply to the ſyſtem before you. This, inſtead of placing the ſtate governments in jeopardy, is founded on their exiſtence. On this principle, its organization depends; it muſt ſtand or fall, as the ſtate governments are ſecured or ruined. Therefore, though this may be a very proper deſcription of a conſolidating government, yet it muſt be diſregarded as inapplicable to the propoſed conſtitution. It is not treated with decency, when ſuch inſinuations are offered againſt it.

The honorable gentleman (Mr. Smilie) tells you, that a conſolidating government, " is one that will tranſfer the ſovereignty from the ſtate governments to the general government." Under this ſyſtem, the ſovereignty is not in the poſſeſſion of the ſtate governments, therefore it cannot be transferred from them to the general government. So that in no point of view of this definition, can we diſcover that it applies to the preſent ſyſtem.

In the exerciſe of its powers will be inſured the exerciſe of their powers to the ſtate government; it will inſure peace and ſtability to them; their ſtrength will encreaſe with its ſtrength, their growth will extend with its growth.

Indeed narrow minds, and ſome ſuch there are in every government—narrow minds, and intriguing ſpirits, will be active in ſowing diſſentions and promoting diſcord between them. But thoſe whoſe underſtandings, and whoſe hearts are good enough to purſue the general welfare, will find, that what is the intereſt of the whole, muſt, on the great ſcale, be the intereſt of every part. It will be the duty of a ſtate, as of an individual, to ſacrifice her own convenience to the general good of the union.

The next objection that I mean to take notice of is, that the powers of the ſeveral parts of this government are not kept as diſtinct and independent as they ought to be. I admit the truth of this general ſentiment. I do not think, that in the powers of the ſenate, the diſtinction is marked with ſo much accuracy as I wiſhed, and ſtill wiſh; but yet I am of opinion, that real and effectual ſecurity is obtained, which is ſaying a great deal. I do not conſider this part as *wholly* unexceptionable; but even where there are defects in this ſyſtem, they are improvements upon the old. I will go a little further; though in this ſyſtem, the diſtinction and independence of power is not adhered to with entire theoretical preciſion, yet it is more ſtrictly adhered to than in any other ſyſtem of government in the world. In the conſtitution of Pennſylvania, the executive department exerciſes judicial powers, in the trial of public officers; yet a ſimilar power in this ſyſtem is complained of; at the ſame time the conſtitution of Pennſylvania is referred to, as an example for the late convention, to have taken a leſſon by.

In New-Jerſey, in Georgia, in South-Carolina, and in North Carolina, the executive power is blended with the legiſlative. Turn to their conſtitutions, and ſee in how many inſtances.

In North-Carolina, the ſenate and houſe of commons, elect the governor himſelf; they likewiſe elect ſeven perſons, to be a council of ſtate, to adviſe the governor in the execution of his office. Here we find the whole executive department under the nomination of the legiſlature, at leaſt the moſt important part of it.

In South-Carolina, the legiſlature appoint the governor and commander in chief, lieutenant governor and privy council. "Juſtices of the peace ſhall be nominated by the "legiſlature, and commiſſioned by the governor," and what is more, they are appointed during pleaſure. All other judicial officers, are to be appointed by the ſenate and houſe of repreſentatives. I might go further, and detail a great multitude of inſtances, in which the legiſlative, executive, and judicial powers are blended, but it is unneceſſary; I only mention theſe to ſhew, that though this conſtitution does not arrive at what is called perfection, yet, it contains great improvements, and its powers are diſtributed with a degree of accuracy, ſuperior to what is termed accuracy, in particular ſtates.

There are four inſtances in which improper powers are ſaid to be blended in the ſenate. We are told, that this government is imperfect, becauſe the ſenate poſſeſs the power of trying impeachments. But here, ſir, the ſenate are under a check, as no impeachment can be tried until it is made; and the houſe of repreſentatives poſſeſs the ſole power of making impeachments. We are told that the ſhare which the ſenate have in making treaties, is exceptionable; but here they are alſo under a check, by a conſtituent part of the government, and nearly the immediate repreſentative of the people, I mean the preſident of the United States. They can make no treaty without his concurrence. The ſame obſervation applies in the appointment of officers. Every officer muſt be nominated ſolely and excluſively, by the preſident.

Much has been ſaid on the ſubject of treaties, and this power is denominated a blending of the legiſlative and executive powers in the ſenate. It is but juſtice to repreſent the favorable, as well as unfavorable ſide of a queſtion, and from thence determine, whether the objectionable parts are of a ſufficient weight to induce a rejection of this conſtitution.

There is no doubt, ſir, but under this conſtitution, treaties

will become the ſupreme law of the land; nor is there any doubt but the ſenate and preſident poſſeſs the power of making them. But though treaties are to have the force of laws, they are in ſome important reſpects very different from other acts of legiſlation. In making laws, our own conſent alone is neceſſary. In forming treaties, the concurrence of another power becomes neceſſary; treaties, ſir, are truly contracts, or compacts, between the different ſtates, nations, or princes, who find it convenient or neceſſary to enter into them. Some gentlemen are of opinion, that the power of making treaties ſhould have been placed in the legiſlature at large; there are, however, reaſons that operate with a great force on the other ſide. Treaties are frequently, (eſpecially in time of war,) of ſuch a nature, that it would be extremely improper to publiſh them, or even commit the ſecret of their negociation to any great number of perſons. For my part I am not an advocate for ſecrecy in tranſactions relating to the public; not generally even in forming treaties, becauſe I think that the hiſtory of the diplomatique corps will evince, even in that great department of politics, the truth of an old adage, that "honeſty is the beſt policy," and this is the conduct of the moſt able negociators; yet ſometimes ſecrecy may be neceſſary, and therefore it becomes an argument againſt committing the knowledge of theſe tranſactions to too many perſons. But in their nature treaties originate differently from laws. They are made by equal parties, and each ſide has half of the bargain to make; they will be made between us and the powers at the diſtance of three thouſand miles. A long ſeries of negociation will frequently precede them; and can it be the opinion of theſe gentlemen, that the legiſlature ſhould be in ſeſſion during this whole time? It well deſerves to be remarked, that though the houſe of repreſentatives poſſeſs no active part in making treaties, yet their legiſlative authority will be found to have ſtrong reſtraining influence upon both preſident and ſenate. In England, if the king and his miniſters find themſelves, during their negociation, to be embarraſſed, becauſe an exiſting law is not repealed, or a new law is not enacted, they give notice to the legiſlature of their ſituation, and inform them that it will be neceſſary, before the treaty can operate, that ſome law be repealed, or ſome be made. And will not the ſame thing take place here? Shall leſs prudence, leſs caution, leſs moderation, take place

among thoſe who negotiate treaties for the United States, than among thoſe who negotiate them for the other nations of the earth? And let it be attended to, that even in the making treaties the ſtates are immediately repreſented, and the people mediately repreſented; two of the conſtituent parts of government muſt concur in making them. Neither the preſident nor the ſenate ſolely, can complete a treaty; they are checks upon each other, and are ſo balanced, as to produce ſecurity to the people.

I might ſuggeſt other reaſons, to add weight to what has already been offered, but I believe it is not neceſſary; yet let me however add one thing, the ſenate is a favorite with many of the ſtates, and it was with difficulty that theſe checks could be procured; it was one of the laſt exertions of conciliation, in the late convention, that obtained them.

It has been alleged, as a conſequence of the ſmall number of repreſentatives, that they will not know as intimately as they ought, the intereſts, inclinations, or habits, of their conſtituents.

We find on an examination of all its parts, that the objects of this government are ſuch, as extend beyond the bounds of the particular ſtates. This is the line of diſtinction between this government, and the particular ſtate governments.

This principle I had an opportunity of illuſtrating on a former occaſion. Now when we come to conſider the objects of this government, we ſhall find, that in making our choice of a proper character, to be a member of the houſe of repreſentatives, we ought to fix on one, whoſe mind and heart are enlarged; who poſſeſſes a general knowledge of the intereſts of America, and a diſpoſition to make uſe of that knowledge, for the advantage and welfare of his country. It belongs not to this government to make an act for a particular townſhip, county, or ſtate.

A defect in *minute* information, has not certainly been an objection in the management of the buſineſs of the United States; but the want of enlarged ideas, has hitherto been chargeable on our councils; yet even with regard to minute knowledge, I do not conceive it impoſſible to find eight characters, that may be very well informed as to the ſituation, intereſts and views, of every part of this ſtate; and who may have a concomitant intereſt with their fellow citizens: they could

not materially injure others, without affecting their own fortunes.

I did say, that in order to obtain that enlarged information in our representatives, a large district for election would be more proper than a small one. When I speak of large districts, it is not agreeable to the idea entertained by the honorable member from Fayette (Mr. Smilie) who tells you, that elections for large districts must be ill attended, because the people will not chuse to go very far on this business. It is not meant, sir, by me, that the votes should be taken at one place; no, sir, the elections may be held thro' this state, in the same manner as elections for members of the general assembly, and this may be done too without any additional inconvenience or expence.

If it could be effected, all the people of the same society ought to meet in one place, and communicate freely with each other on the great business of representation. Though this cannot be done in fact, yet we find that it is the most favorite and constitutional idea. It is supported by this principle too, that every member is the representative of the whole community, and not of a particular part. The larger therefore the district is, the greater is the probability of selecting wise and virtuous characters, and the more agreeble it is to the constitutional principle of representation.

As to the objection, that the house of representatives may be bribed by the senate, I confess I do not see that bribery is an objection against *this system*; it is rather an objection against human nature. I am afraid that bribes in every government may be offered and received; but let me ask of the gentlemen who urge this objection, to point out where any power is given to bribe *under this constitution?* Every species of influence is guarded against as much as possible. Can the senate procure money to effect such design? All public monies must be disposed of by law, and it is necessary that the house of representatives originate such law. Before the money can be got out of the treasury, it must be appropriated by law. If the legislature had the effrontery to set aside three or four hundred thousand pounds for this purpose, and the people would tamely suffer it, I grant it might be done; and in Pennsylvania the legislature might do the same; for by a law, and that conformably to the constitution, they might divide among themselves what portion of the public money they pleased. I shall just remark, sir, that the objec-

tions, which have repeatedly been made, with regard to "the number of repreſentatives being too ſmall, and that they may poſſibly be made ſmaller; that the diſtricts are too large, and not within the reach of the people; and that the houſe of repreſentatives may be bribed by the ſenate." Theſe objections come with an uncommon degree of impropriety, from thoſe who would refer us back to the articles of confederation. For under thoſe, the repreſentation of this ſtate, cannot exceed ſeven members, and may conſiſt of only two; and theſe are wholly without the reach or control of the people. Is there not alſo greater danger that the majority of ſuch a body might be more eaſily bribed, than the majority of one, not only more numerous, but checked by a diviſion of two or three diſtinct and independent parts? The danger is certainly better guarded againſt in the propoſed ſyſtem, than in any other yet deviſed.

The next objections which I ſhall notice, are, "that the powers of the ſenate are too great, that the repreſentation therein is unequal, and that the ſenate, from the ſmallneſs of its number, may be bribed." Is there any propriety in referring us to the confederation on this ſubject? Becauſe, in one or two inſtances, the ſenate poſſeſs more power than the houſe of repreſentatives, are theſe gentlemen ſupported in their remarks, when they tell you they wiſhed and expected more powers to be given to the preſent congreſs, a body certainly much more exceptionable than any inſtituted under this ſyſtem?

"That the repreſentation in the ſenate is unequal," I regret, becauſe I am of opinion, the ſtates ought to be repreſented according to their importance; but in this ſyſtem there is conſiderable improvement; for the true principle of repreſentation is carried into the houſe of repreſentatives, and into the choice of the preſident; and without the aſſiſtance of one or the other of theſe, the ſenate is inactive, and can do neither good or evil.

It is repeated again and again, by the honorable gentlemen, "that the power over elections, which is given to the general government in this ſyſtem, is a dangerous power." I muſt own I feel myſelf ſurprized that an objection of this kind ſhould be perſiſted in, after what has been ſaid by my honorable colleague in reply. I think it has appeared by a minute inveſtigation of the ſubject, that it would have been not only unwiſe, but highly improper in the late convention, to have

omitted this clause, or given less power, than it does over elections. Such powers, sir, are enjoyed by every state government in the United States. In some, they are of a much greater magnitude; and why should this be the only one deprived of them? Ought not these, as well as every other legislative body, to have the power of judging of the qualifications of its own members? "The times, places and manner of holding elections for representatives, may be altered by congress." This power, sir, has been shewn to be necessary, not only on some particular occasions, but even to the very existence of the federal government. I have heard some very improbable suspicions indeed, suggested with regard to the manner in which it will be exercised. Let us suppose it may be improperly exercised; is it not more likely so to be by the particular states, than by the government of the United States? because the general government will be more studious of the good of the whole, than a particular state will be; and therefore, when the power of regulating the time, place or manner of holding elections, is exercised by the congress, it will be to correct the improper regulations of a particular state.

I now proceed to the second article of this constitution, which relates to the executive department.

I find, sir, from an attention to the arguments used by the gentlemen on the other side of the house, that there are but few exceptions taken to this part of the system. I shall take notice of them, and afterwards point out some valuable qualifications, which I think this part possess in an eminent degree.

The objection against the powers of the president, is not that they are too many or too great, but to state it in the gentlemen's own language, they are so trifling, that the president is no more than the *tool* of the senate.

Now, sir, I do not apprehend this to be the case, because I see that he may do a great many things, independent of the senate; and with respect to the executive powers of government in which the senate participate, they can do nothing without him. Now I would ask, which is most likely to be the tool of the other? Clearly, sir, he holds the helm, and the vessel can proceed neither in one direction nor another, without his concurrence. It was expected by many, that the cry would have been against the powers of the president as a monarchical power; indeed the echo of such sound was heard, some time before the rise of the late convention.

There were men at that time, determined to make an attack upon whatever ſyſtem ſhould be propoſed, but they miſtook the point of direction. Had the preſident phſſeſſed thoſe powers, which the oppoſition on this floor are willing to conſign him, of making treaties, and appointing officers, with the advice of a council of ſtate, the clamor would have been, that the houſe of repreſentatives, and the ſenate, were the *tools* of the monarch. This, ſir, is but conjecture, but I leave it to thoſe who are acquainted with the current of the politics purſued by the enemies to this ſyſtem, to determine whether it is a reaſonable conjecture or not.

The manner of appointing the preſident of the United States, I find is not objected to, therefore I ſhall ſay little on that point. But I think it well worth while, to ſtate to this houſe, how little the difficulties, even in the moſt difficult part of this ſyſtem, appear to have been noticed by the honorable gentlemen in oppoſition. The convention, ſir, were perplexed with no part of this plan, ſo much as with the mode of chooſing the preſident of the United States. For my own part, I think the moſt unexceptionable mode, next after the one preſcribed in this conſtitution, would be that practiſed by the eaſtern ſtates, and the ſtate of New-York; yet if gentlemen object, that an 8th part of our country forms a diſtrict too large for elections, how much more would they object, if it was extended to the whole union? On this ſubject, it was the opinion of a great majority in convention, that the thing was impracticable; other embarraſſments preſented themſelves.

Was the preſident to be appointed by the legiſlature? was he to continue a certain time in office, and afterward was he to become inelegible?

To have the executive officers dependent upon the legiſlative, would certainly be a violation of that principle, ſo neceſſary to preſerve the freedom of republics, that the legiſlative and executive powers ſhould be ſeparate and independent. Would it have been proper, that he ſhould be appointed by the ſenate? I apprehend, that ſtill ſtronger objections could be urged againſt that—cabal—intrigue, corruption—every thing bad would have been the neceſſary concomitant of every election.

To avoid the inconveniences already enumerated, and many others that might be ſuggeſted, the mode before us was adopted. By it we avoid corruption, and we are lit-

tle expoſed to the leſſer evils of party and intrigue; and when the government ſhall be organized, proper care will undoubtedly be taken to counteract influence even of that nature—the conſtitution, with the ſame view has directed, that the day on which the electors ſhall give their votes, ſhall be the ſame throughout the United States. I flatter myſelf the experiment will be a happy one for our country.

The choice of this officer is brought as nearly home to the people as is practicable; with the approbation of the ſtate legiſlatures, the people may elect with only one remove; for "each ſtate ſhall appoint, in ſuch manner as the legiſlature thereof may direct, a number of electors equal to the whole number of ſenators and repreſentatives, to which the ſtate may be entitled in congreſs." Under this regulation, it will not be eaſy to corrupt the electors, and there will be little time or opportunity for tumult or intrigue. This, ſir, will not be like the elections of a Poliſh diet, begun in noiſe and ending in bloodſhed.

If gentlemen will look into this article, and read for themſelves, they will find, that there is no well-grounded reaſon to ſuſpect the preſident will be the *tool* of the ſenate. "The preſident ſhall be commander in chief of the army and navy of the United States, and of the militia of the ſeveral ſtates, when called into the actual ſervice of the United States. He may require the opinion in writing of the principal officers in each of the executive departments, upon any ſubject relative to the duties of their reſpective offices; and he ſhall have power to grant reprieves and pardons, for offences againſt the United States." Muſt the preſident, after all, be called the *tool* of the ſenate? I do not mean to inſinuate, that he has more powers than he ought to have, but merely to declare, that they are of ſuch a nature, as to place him above expreſſions of contempt.

There is another power of no ſmall magnitude, entruſted to this officer: "He ſhall take care, that the laws be faithfully executed."

I apprehend, that in the adminiſtration of this government, it will not be found neceſſary for the ſenate always to ſit. I know ſome gentlemen have inſinuated and conjectured, that this will be the caſe, but I am inclined to a contrary opinion. If they had employment every day, no doubt but it might be the wiſh of the ſenate, to continue their ſeſſion; but from the nature of their buſineſs, I do not think it will be

neceſſary for them to attend longer than the houſe of repreſentatives. Beſides their legiſlative powers, they poſſeſs three others, viz. trying impeachments—concurring in making treaties, and in appointing officers. With regard to their power in making treaties, it is of importance, that it ſhould be very ſeldom exerciſed—we are happily removed from the vortex of European politics, and the fewer, and the more ſimple our negotiations with European powers, the better they will be; if ſuch be the caſe, it will be but once in a number of years, that a ſingle treaty will come before the ſenate. I think, therefore, that on this account it will be unneceſſary to ſit conſtantly. With regard to the trial of impeachments, I hope it is what will ſeldom happen. In this obſervation, the experience of the ten laſt years ſupport me. Now there is only left the power of concurring in the appointment of officers;—but care is taken, in this conſtitution, that this branch of buſineſs may be done without their preſence—the preſident is authoriſed to fill up all vacancies, that may happen during the receſs of the ſenate, by granting commiſſions, which ſhall expire at the end of their next ſeſſion. So that on the whole the ſenate need not ſit longer than the houſe of repreſentatives, at the public expenſe; and no doubt if apprehenſions are entertained of the ſenate, the houſe of repreſentatives will not provide pay for them, one day longer than is neceſſary. But what (it will be aſked) is this great power of the preſident? he can fill the offices only by temporary appointments. True; but every perſon knows the advantage of being once introduced into an office; it is often of more importance than the higheſt recommendation.

Having now done with the legiſlative and executive branches of this government, I ſhall juſt remark, that upon the whole of the executive, it appears that the gentlemen in oppoſition ſtate nothing as exceptionable, but the deficiency of powers in the preſident; but rather ſeem to allow ſome degree of political merit in this department of government.

I now proceed to the judicial department; and here, Mr. Preſident, I meet an objection, I confeſs I had not expected; and it ſeems it did not occur to the honorable gentleman (Mr. Findley) who made it, until a few days ago.

He alleges, that the judges, under this conſtitution, are not rendered ſufficiently independent, becauſe they may hold

other offices; and though they may be independent as judges, yet their other office may depend upon the legiſlature. I confeſs, ſir, this objection appears to me, to be a little wire-drawn in the firſt place; the legiſlature can appoint to no office, therefore the dependence could not be on them for the office, but rather on the preſident and ſenate; but then theſe cannot add the ſalary, becauſe no money can be appropriated, but in conſequence of a law of the United States. No ſinecure can be beſtowed on any judge, but by the concurrence of the whole legiſlature and of the preſident; and I do not think this an event that will probably happen.

It is true, that there is a proviſion made in the conſtitution of Pennſylvania, that the judges ſhall not be allowed to hold any other office whatſoever; and I believe they are expreſſly forbidden to ſet in congreſs; but this, ſir, is not introduced as a principle into this conſtitution. There are many ſtates in the union, whoſe conſtitutions do not limit the uſefulneſs of their beſt men, or exclude them from rendering ſuch ſervices to their country, for which they are found eminently qualified. New-York, far from reſtricting their chancellor or judges of the ſupreme court, from a ſeat in congreſs, expreſsly provide for ſending them there on extraordinary occaſions. In Connecticut, the judges are not precluded from enjoying other offices. Judges from many ſtates have ſat in congreſs. Now it is not to be expected, that eleven or twelve ſtates are to change their ſentiments and practice on this ſubject, to accommodate themſelves to Pennſylvania.

It is again alleged againſt this ſyſtem, that the powers of the judges are too extenſive; but I will not trouble you, ſir, with a repetition of what I had the honor of delivering the other day; I hope the reſult of thoſe arguments gave ſatisfaction, and proved that the judicial were commenſurate with the legiſlative powers; that they went no further, and that they ought to go ſo far.

The laws of congreſs being made for the union, no particular ſtate can be alone affected, and as they are to provide for the general purpoſes of the union, ſo ought they to have the means of making the proviſions effectual, over all that country included within the union.

EODEM DIE, 1787. P. M.

MR. WILSON.

I ſhall now proceed, Mr. Preſident, to notice the remainder of the objections that have been ſuggeſted, by the honorable gentlemen who oppoſe the ſyſtem now before you.

We have been told, ſir, by the honorable member from Fayette (Mr. Smilie) "that the trial by jury was *intended* to be given up, and the civil law was *intended* to be introduced into its place, in civil caſes."

Before a ſentiment of this kind was hazarded, I think, ſir, the gentleman ought to be prepared with better proof in its ſupport, than any he has yet attempted to produce. It is a charge, ſir, not only unwarrantable, but cruel; the idea of ſuch a thing, I believe, never entered into the mind of a ſingle member of that convention; and I believe further, that they never ſuſpected there would be found within the United States, a ſingle perſon that was capable of making ſuch a charge. If it ſhould be well founded, ſir, they *muſt* abide by the conſequences, but if (as I truſt it will fully appear) it is ill founded, then he or they who make it, *ought* to abide by the conſequences.

Trial by jury forms a large field for inveſtigation, and numerous volumes are written on the ſubject; thoſe who are well acquainted with it may employ much time in its diſcuſſion; but in a country where its excellence is ſo well underſtood, it may not be neceſſary to be very prolix, in pointing them out. For my part, I ſhall confine myſelf to a few obſervations in reply to the objections that have been ſuggeſted.

The member from Fayette (Mr. Smilie) has laboured to infer, that under the articles of confederation, the congreſs poſſeſſed no appellate juriſdiction; but this being decided againſt him, by the words of that inſtrument, by which is granted to congreſs the power of "eſtabliſhing courts for receiving and determining, finally, appeals in all caſes of capture;" he next attempts a diſtinction, and allows the power of appealing from the deciſions of the judges, but not from the verdict of a jury; but this is determined againſt him alſo, by the practice of the ſtates; for in every inſtance which has occurred, this power has been claimed by congreſs, and exerciſed by the court of appeals; but what would be the con-

ſequence of allowing the doctrine for which he contends? Would it not be in the power of a jury, by their verdict, to involve the whole union in a war? They may condemn the property of a natural, or otherwiſe infringe the law of nations; in this caſe ought their verdict to be without reviſal? Nothing can be inferred from this, to prove that trials by jury were intended to be given up. In Maſſachuſetts, and all the eaſtern ſtates, their cauſes are tried by juries, though they acknowledge the appellate juriſdiction of congreſs.

I think I am not now to learn the advantages of a trial by jury; it has excellencies that entitle it to a ſuperiority over any other mode, in caſes to which it is applicable.

Where jurors can be acquainted with the characters of the parties, and the witneſſes, where the whole cauſe can be brought within their knowledge and their view, I know no mode of inveſtigation equal to that by a jury; they hear every thing that is alleged; they not only hear the words, but they ſee and mark the features of the countenance; they can judge of weight due to ſuch teſtimony; and moreover, it is a cheap and expeditious manner of diſtributing juſtice. There is another advantage annexed to the trial by jury; the jurors may indeed return a miſtaken, or ill founded verdict, but their errors cannot be ſyſtematical.

Let us apply theſe obſervations to the objects of the judicial department, under this conſtitution. I think it has been ſhewn already, that they all extend beyond the bounds of any particular ſtate; but further, a great number of the civil cauſes there enumerated, depend either upon the law of nations, or the marine law, that is, the general law of mercantile countries. Now, ſir, in ſuch cauſes, I preſume it will not be pretended that this mode of deciſion ought to be adopted; for the law with regard to them is the ſame here as in every other country, and ought to be adminiſtered in the ſame manner. There are inſtances, in which I think it highly probable, that the trial by jury will be found proper; and if it is highly probable that it will be found proper, is it not equally probable, that it will be adopted? There may be cauſes depending between citizens of different ſtates, and as trial by jury is known and regarded in all the ſtates, they will certainly prefer that mode of trial before any other. The congreſs will have the power of making proper regulations on his ſubject, but it was impoſſible for the convention to have

gone minutely into it; but if they could, it muſt have been very improper, becauſe alterations, as I obſerved before, might have been neceſſary; and whatever the convention might have done would have continued unaltered, unleſs by an alteration of the conſtitution. Beſides; there was another difficulty with regard to this ſubject. In ſome of the ſtates they have courts of chancery, and other appellate juriſdictions, and thoſe ſtates are as attached to that mode of diſtributing juſtice, as thoſe that have none are to theirs.

I have deſired, repeatedly, that honorable gentlemen, who find fault, would be good enough to point out what they deem to be an improvement. The member from Weſtmoreland (Mr. Findley) tells us, that the trial between citizens of different ſtates, ought to be by a jury of that ſtate in which the cauſe of action aroſe. Now it is eaſy to ſee, that in many inſtances, this would be very improper and very partial; for beſide the different manner of collecting and forming juries in the ſeveral ſtates, the plaintiff comes from another ſtate; he comes a ſtranger, unknown as to his character or mode of life, while the other party is in the midſt of his friends, or perhaps his dependants. Would a trial by jury in ſuch a caſe enſure juſtice to the ſtranger? But again; I would aſk that gentleman, whether, if a great part of his fortune was in the hands of ſome perſon in Rhode-Iſland, he would wiſh, that his action to recover it, ſhould be determined by a jury of that country, under its preſent circumſtances?

The gentleman from Fayette (Mr. Smilie) ſays, that if the convention found themſelves embarraſſed, at leaſt they might have done thus much, they ſhould have declared, that the ſubſtance ſhould be ſecured by congreſs; this would be ſaying nothing unleſs the caſes were particularized.

MR. SMILIE.

I ſaid the convention ought to have declared, that the legiſlature ſhould eſtabliſh the trial by jury by proper regulations.

MR. WILSON.

The legiſlature ſhall eſtabliſh it by proper regulations! So after all, the gentleman has landed us at the very point from which we ſet out. He wiſhes them to do the very thing they have done, to leave it to the diſcretion of congreſs. The fact, ſir, is, nothing more could be done.

It is well known, that there are ſome caſes that ſhould not come before juries; there are others, that in ſome of the ſtates, never come before juries, and in theſe ſtates where they do come before them, appeals are found neceſſary, the facts re-examined, and the verdict of the jury ſometimes is ſet aſide; but I think in all caſes, where the cauſe has come originally before a jury, that the laſt examination ought to be before a jury likewiſe.

The power of having appellate juriſdiction, as to facts, has been inſiſted upon as a proof, "that the convention *intended* to give up the trial by jury in civil caſes, and to introduce the civil law." I have already declared my own opinion on this point, and have ſhewn, nor merely, that it is founded on reaſon and authority. The expreſs declaration of congreſs* is to the ſame purpoſe: They inſiſt upon this power, as requiſite to preſerve the peace of the union; certainly, therefore, it ought always to be poſſeſſed by the head of the confederacy.

We are told, as an additional proof, that the trial by jury was intended to be given up, "that appeals are unknown to the common law; that the term is a civil law term, and with it the civil law is intended to be introduced." I confeſs I was a good deal ſurprized at this obſervation being made; for Blackſtone, in the very volume which the honorable member (Mr. Smilie) had in his hand, and read us ſeveral extracts from, has a chapter entitled "of proceeding in the nature of appeals;" and in that chapter ſays, that the principal method of redreſs for erroneous judgments, in the king's courts of record, is by writ of error to ſome ſuperior "*court of appeal.*" § Now, it is well known, that his book is a commentary upon the common law. Here then is a ſtrong refutation of the aſſertion, "that appeals are unknown to the common law."

I think theſe were all the circumſtances adduced to ſhew the truth of the aſſertion, that in this conſtitution, the trial by jury was *intended* to be given up by the late convention in framing it. Has the aſſertion been proved? I ſay not, and the allegations offered, if they apply at all, apply in a contrary direction. I am glad that this objection has been ſtated, becauſe it is a ſubject upon which the enemies of this conſtitution have much inſiſted. We have now had an opportunity of inveſtigating it fully, and the reſult is, that there is no

* Journals of congreſs, March 6, 1779. § III. Blackſtone, 406.

foundation for the charge, but it muſt proceed from ignorance, or ſomething worſe.

I go on to another objection, which has been taken to this ſyſtem, "that the expence of the general government and of the ſtate governments, will be too great, and that the citizens will not be able to ſupport them." If the ſtate governments are to continue as cumberſome and expenſive as they have hitherto been, I confeſs it would be diſtreſſing to add to their expences, and yet it might be neceſſary; but I think I can draw a different concluſion on this ſubject, from more conjectures than one. The additional revenue to be raiſed by a general government, will be more than ſufficient for the additional expence; and a great part of that revenue may be ſo contrived, as not to be taken from the citizens of this country; for I am not of opinion, that the conſumer always pays the impoſt that is laid on imported articles; it is paid ſometimes by the importer, and ſometimes by the foreign merchant who ſends them to us. Had a duty of this nature been laid at the time of the peace, the greateſt part of it would have been the contribution of foreigners. Beſides, whatever is paid by the citizens, is a voluntary *payment*.

I think, ſir, it would be very eaſy and laudable, to leſſen the expences of the ſtate governments. I have been told, (and perhaps it is not very far from the truth) that there are *two thouſand* members of aſſembly in the ſeveral ſtates; the buſineſs of revenue is done in conſequence of requiſitions from congreſs, and whether it is furniſhed or not, it commonly becomes a ſubject of diſcuſſion. Now when this buſineſs is executed by the legiſlature of the United States, I leave it to thoſe who are acquainted with the expence of long and frequent ſeſſions of aſſembly, to determine the great ſaving that will take place. Let me appeal to the citizens of Pennſylvania, how much time is taken up in this ſtate every year, if not every ſeſſion, in providing for the payment of an amazing intereſt due on her funded debt. There will be many ſources of revenue, and many opportunities for œconomy, when the buſineſs of finance ſhall be adminiſtered under one government; the funds will be more productive, and the taxes, in all probability, leſs burthenſome than they are now.

I proceed to another objection, that is taken againſt the power given to congreſs, of raiſing and keeping up ſtanding armies. I confeſs I have been ſurprized that this objection was ever made, but I am more ſo that it is ſtill repeated and

inſiſted upon. I have taken ſome pains to inform myſelf how the other governments of the world ſtand with regard to this power; and the reſult of my enquiry is, that there is not one which has not the power of raiſing and keeping up ſtanding armies. A government without the power of defence! it is a ſolœciſm!

I well recollect the principle inſiſted upon by the patriotic body in Great-Britain; it is, that in time of peace, a ſtanding army ought not to be kept up, without the conſent of parliament. Their only apprehenſion appears to be, that it might be dangerous, was the army kept up without the concurrence of the repreſentatives of the people. Sir, we are not in the millenium. Wars may happen—and when they do happen, who is to have the power of collecting and appointing the force then become immediately and indiſpenſably neceſſary?

It is not declared in this conſtitution, that the congreſs *ſhall* raiſe and ſupport armies. No, ſir, if they are not driven to it by neceſſity, why ſhould we ſuppoſe they would do it by choice, any more than the repreſentatives of the ſame citizens, in the ſtate legiſlatures? for we muſt not loſe ſight of the great principle upon which this work is founded. The authority here given to the general government, flows from the ſame ſource, as that placed in the legiſlatures of the ſeveral ſtates.

It may be frequently neceſſary to keep up ſtanding armies in time of peace. The preſent congreſs have experienced the neceſſity; and ſeven hundred troops are juſt as much a ſtanding army as ſeventy thouſand. The principle which ſuſtains them is preciſely the ſame. They may go further, and raiſe an army, without communicating to the public the purpoſe for which it is raiſed. On a particular occaſion, they did this: When the commotions exiſted in Maſſachuſetts, they gave orders for enliſting an additional body of two thouſand men. I believe it is not generally known, on what a perilous tenure we held our freedom and independence at that period. The flames of internal inſurrection were ready to burſt out in every quarter; they were formed by the correſpondents of ſome ſtate officers (to whom an alluſion was made on a former day) and from one end to the other of the continent, we walked on aſhes, concealing fire beneath our feet: and ought congreſs to be deprived of power to prepare for the defence and ſafety of our country? Ought they to be

reſtrained from arming, until they divulge the motive which induced them to arm? I believe the *power* of raiſing and keeping up an army, in time of peace, is eſſential to every government. No government can ſecure its citizens againſt dangers, internal and external, without poſſeſſing it, and ſometimes carrying it into execution. I confeſs it is a power, in the exerciſe of which all wiſe and moderate governments will be as prudent and forbearing as poſſible. When we conſider the ſituation of the United States, we muſt be ſatisfied, that it will be neceſſary to keep up ſome troops for the protection of the weſtern frontiers, and to ſecure our intereſt in the internal navigation of that country. It will be not only neceſſary, but it will be œconomical on the great ſcale. Our enemies finding us invulnerable, will not attack us, and we ſhall thus prevent the occaſion for larger ſtanding armies. I am now led to conſider another charge that is brought againſt this ſyſtem.

It is ſaid, that congreſs ſhould not poſſeſs the power of calling out the militia, to execute the laws of the union, ſuppreſs inſurrections and repel invaſions, nor the preſident have the command of them, when called out for ſuch purpoſes.

I believe any gentleman who poſſeſſes military experience will inform you, that men without an uniformity of arms, accoutrements and diſcipline, are no more than a mob in a camp; that in the field, inſtead of aſſiſting, they interfere with one another. If a ſoldier drops his muſquet, and his companion, unfurniſhed with one, takes it up, it is of no ſervice, becauſe his cartridges do not fit it. By means of this ſyſtem, a uniformity of arms and diſcipline will prevail throughout the United States.

I really expected that for this part of the ſyſtem at leaſt, the framers of it would have received plaudits, inſtead of cenſures, as they here diſcover a ſtrong anxiety to have this body put upon an effective footing, and thereby, in a great meaſure, to ſupercede the neceſſity of raiſing, or keeping up, ſtanding armies.

The militia formed under this ſyſtem, and trained by the ſeveral ſtates, will be ſuch a bulwark of internal ſtrength, as to prevent the attacks of foreign enemies. I have been told, that about the year 1744, an attack was intended by France upon Maſſachuſetts Bay, but was given up on reading the militia law of that province.

If a ſingle ſtate could deter an enemy from ſuch attempts, what influence will the propoſed arrangement have upon the different powers of Europe!

In every point of view, this regulation is calculated to produce the beſt effects. How powerful and reſpectable muſt the body of militia appear, under general and uniform regulations! how disjointed, weak and inefficient are they at preſent! I appeal to military experience for the truth of my obſervations.

The next objection, ſir, is a ſerious one indeed; it was made by the honorable gentleman from Fayette (Mr Smilie) "The convention knew this was not a free government, otherwiſe they would not have aſked the powers of the purſe and ſword." I would beg to aſk the gentleman, what free government he knows that has not the powers of both? there was indeed a government under which we unfortunately were for a few years paſt, that had them not, but it does not now exiſt. A government without thoſe powers, is one of the improvements with which oppoſition wiſh to aſtoniſh mankind.

Have not the freeſt government thoſe powers? and are they not in the fulleſt exerciſe of them? this is a thing ſo clear, that really it is impoſſible to find facts or reaſon more clear, in order to illuſtrate it. Can we create a government without the power to act; how can it act without the aſſiſtance of men? and how are men to be procured without being paid for their ſervices? is not the one power the conſequence of the other?

We are told, and it is the laſt and heavieſt charge, "that this government is an ariſtocracy, and was *intended* ſo to be by the late convention;" and we are told (the truth of which is not diſputed) that an ariſtocratical government is incompatible with freedom. I hope, before this charge is believed, ſome ſtronger reaſons will be given in ſupport of it, than any that have yet been produced.

The late convention were aſſembled to deviſe ſome plan for the ſecurity, ſafety and happineſs of the people of the United States; if they have deviſed a plan, that robs them of their power, and conſtitutes an ariſtocracy, they are the parricides of their country, and ought to be puniſhed as ſuch. What part of this ſyſtem is it that warrants the charge?

What is an ariſtocratic government? I had the honor of giving a definition of it at the beginning of our debates; it

is, ſir, the government of a few over the many, elected by themſelves, or poſſeſſing a ſhare in the government by inheritance, or in conſequence of territorial rights, or ſome quality independent of the choice of the people; this is an ariſtocracy, and this conſtitution is ſaid to be an ariſtocratical form of government, and it is alſo ſaid that it was intended ſo to be by the members of the late convention who framed it. What peculiar rights have been reſerved to any claſs of men, on any occaſion? does even the firſt magiſtrate of the United States draw to himſelf a ſingle privilege, or ſecurity, that does not extend to every perſon throughout the United States? Is there a ſingle diſtinction attached to him in this ſyſtem, more than there is to the loweſt officer in the republic? Is there an office from which any one ſet of men whatſoever are excluded? Is there one of any kind in this ſyſtem but is as open to the poor as to the rich? to the inhabitant of the country, as well as to the inhabitant of the city? and are the places of honor and emoluments confined to a few? and are theſe few the members of the late convention? Have they made any particular proviſions in favor of themſelves, their relations, or their poſterity? If they have committed their country to the demon of ariſtocracy, have they not committed themſelves alſo, with every thing they held near and dear to them?

Far, far other is the genius of this ſyſtem. I have had already the honor of mentioning its general nature; but I will repeat it, ſir. In its principle, it is purely democratical; but its parts are calculated in ſuch manner, as to obtain thoſe advantages alſo, which are peculiar to the other forms of government in other countries. By appointing a ſingle magiſtrate, we ſecure ſtrength, vigour, energy and reſponſibility in the executive department. By appointing a ſenate, the members of which are elected for ſix years, yet by a rotation already taken notice of, they are changing every ſecond year, we ſecure the benefit of experience, while, on the other hand, we avoid the inconveniences that ariſe from a long and detached eſtabliſhment. This body is periodically renovated from the people, like a tree, which, at the proper ſeaſon, receives its nouriſhment from its parent earth.

In the other branch of the legiſlature, the houſe of repreſentatives, ſhall we not have the advantages, of benevolence and attachment to the people, whoſe immediate repreſentatives they are?

A free government has often been compared to a pyramid. This allusion is made with peculiar propriety in the system before you; it is laid on the broad basis of the people; its powers gradually rise, while they are confined, in proportion as they ascend, until they end in that most permanent of all forms. When you examine all its parts, they will invariably be found to preserve that essential mark of free governments—a chain of connection with the people.

Such, sir, is the nature of this system of government; and the important question at length presents itself to our view. Shall it be ratified, or shall it be rejected by this convention? In order to enable us still further to form a judgment on this truly momentous and interesting point, on which all we have or can have dear to us on earth, is materially depending, let us for a moment consider the consequences that will result from one or the other measure. Suppose we reject this system of government, what will be the consequence? Let the farmer say, he whose produce remains unasked for; nor can he find a single market for its consumption, though his fields are blessed with luxuriant abundance. Let the manufacturer and let the mechanic say, they can feel and tell their feelings. Go along the wharves of Philadelphia, and observe the melancholy silence that reigns. I appeal not to those who enjoy places and abundance under the present government; they may well dilate upon the easy and happy situation of our country. Let the merchants tell you, what is our commerce; let them say, what has been their situation, since the return of peace: An æra which they might have expected would furnish additional sources to our trade, and a continuance, and even an encrease to their fortunes. Have these ideas been realized, or do they not lose some of their capital in every adventure, and continue the unprofitable trade from year to year, subsisting under the hopes of happier times under an efficient general government? The ungainful trade carried on by our merchants, has a baneful influence on the interests of the manufacturer, the mechanic, and the farmer, and these I believe are the chief interests of the people of the United States.

I will go further—is there now a government among us that can do a single act, that a national government ought to do? Is there any power of the United States that can *command* a single shilling? this is a plain and a home question.

Congress may recommend, they can do more, they may

require, but they must not proceed one step further.—If things are bad now, and that they are not worse, is only owing to hopes of improvement, or change in the system, will they become better when those hopes are disappointed? We have been told, by honorable gentlemen on this floor (Mr. Smilie, Mr. Findley and Mr. Whitehill) that it is improper to urge this kind of argument in favor of a new system of government, or against the old one: unfortunately, sir, these things are too severely felt to be omitted; the people feel them; they pervade all classes of citizens, and every situation from New-Hampshire to Georgia; the argument of necessity is the patriots defence, as well as the tyrant's plea.

Is it likely, sir, that, if this system of government is rejected, a better will be framed and adopted? I will not expatiate on this subject, but I believe many reasons will suggest themselves, to prove that such an expectation would be illusory. If a better could be obtained at a future time; is there any thing essentially wrong in this? I go further, is there any thing wrong that cannot be amended more easily by the mode pointed out in the system itself, than could be done, by calling convention after convention, before the organization of the government. Let us now turn to the consequences that will result if we assent to, and ratify the instrument before you; I shall trace them as concisely as I can, because, I have trespassed already too long on the patience and indulgence of the house.

I stated on a former occasion one important advantage; by adopting this system, we become a NATION; at present we are not one. Can we perform a single national act? Can we do any thing to procure us dignity, or to preserve peace and tranquillity? can we relieve the distress of our citizens? can we provide for their welfare or happiness? The powers of our government are mere sound. If we offer to treat with a nation, we receive this humiliating answer. "You cannot "in propriety of language make a treaty—because you have "no power to execute it." Can we borrow money? There are too many examples of unfortunate creditors existing, both on this and the other side of the Atlantic, to expect success from this expedient.—But could we borrow money, we cannot command a fund, to enable us to pay either the principal or interest; for, in instances where our friends have advanced the principal, they have been obliged to advance

the intereſt alſo, in order to prevent the principal from being annihilated in their hands by depreciation. Can we raiſe an army? The proſpect of a war is highly probable. The accounts we receive by every veſſel from Europe, mention, that the higheſt exertions are making in the ports and arſenals of the greateſt maritime powers; but, whatever the conſequence may be, are we to lay ſupine? we know we are unable under the articles of confederation to exert ourſelves, and ſhall we continue ſo, until a ſtroke be made on our commerce, or we ſee the debarkation of an hoſtile army on our unprotected ſhores? Who will guarantee that our property will not be laid waſte, that our towns will not be put under contribution, by a ſmall naval force, and ſubjected to all the horror and devaſtation of war? May not this be done without oppoſition, at leaſt effectual oppoſition, in the preſent ſituation of our country? There may be ſafety over the Appelachian mountains, but there can be none on our ſea coaſt. With what propriety can we hope our flag will be reſpected, while we have not a ſingle gun to fire in its defence?

Can we expect to make internal improvement, or accompliſh any of thoſe great national objects, which I formerly alluded to, when we cannot find money to remove a ſingle rock out of a river?

This ſyſtem, ſir, will at leaſt make us a nation, and put it in the power of the union to act as ſuch. We will be conſidered as ſuch by every nation in the world. We will regain the confidence of our own citizens and command the reſpect of others.

As we ſhall become a nation, I truſt that we ſhall alſo form a national character; and that this character will be adapted to the principles and genius of our ſyſtem of government, as yet we poſſeſs none—our language, manners, cuſtoms, habits, and dreſs, depend too much upon thoſe of other countries. Every nation in theſe reſpects ſhould poſſeſs originality, there are not on any part of the globe finer qualities, for forming a national character, than thoſe poſſeſſed by the children of America. Activity, perſeverance, induſtry, laudable emulation, docility in acquiring information, firmneſs in adverſity, and patience and magnanimity under the greateſt hardſhips; from theſe materials, what a reſpectable national character may be raiſed! In addition to this character, I think there is ſtrong reaſon to believe, that America may take the lead in literary improvements and national importance. This is

a ſubject, which I confeſs, I have ſpent much pleaſing time in conſidering. That language, ſir, which ſhall become moſt generally known in the civilized world, will impart great importance over the nation that ſhall uſe it. The language of the United States will, in future times, be diffuſed over a greater extent of country, than any other that we now know. The French, indeed, have made laudable attempts toward eſtabliſhing an univerſal language, but, beyond the boundares of France, even the French language is not ſpoken by one in a thouſand. Beſides, the freedom of our country, the great improvements ſhe has made and will make in the ſcience of government, will induce the patriots and literati of every nation, to read and underſtand our writings on that ſubject, and hence it is not improbable that ſhe will take the lead in political knowledge.

If we adopt this ſyſtem of government, I think we may promiſe ſecurity, ſtability and tranquility to the governments of the different ſtates. They will not be expoſed to the diſturbance of competition on queſtions of territory, or any other cauſe that have heretofore diſturbed them. A tribunal is here formed to decide, juſtly and quietly, any interfering claim; and now is accompliſhed, what the great mind of Henry the IVth of France had in contemplation, a ſyſtem of government, for large and reſpectable dominions, united and bound together in peace, under a ſuperintending head, by which all their differences may be accommodated, without the diſtruction of the human race!! We are told by Sully, that this was the favorite purſuit of that good king during the laſt years of his life, and he would probably have carried it into execution, had not the dagger of an aſſaſſin deprived the world of his valuable life. I have, with pleaſing emotion, ſeen the wiſdom and beneficence of a leſs efficient power under the articles of confederation, in the determination of the controverſy between the ſtates of Pennſylvania and Connecticut; but, I have lamented, that the authority of congreſs did not extend to extinguiſh, entirely, the ſpark which has kindled a dangerous flame in the diſtrict of Wyoming.

Let gentlemen turn their attention to the amazing conſequences which this principle will have in this extended country—the ſeveral ſtates cannot war with each other; the general government is the great arbiter in contentions between them; the whole force of the union can be called forth to reduce an agreſſor to reaſon. What an happy ex-

change for the disjointed contentious ſtate ſovereignties!

The adoption of this ſyſtem will alſo ſecure us from danger, and procure us advantages from foreign nations. This in our ſituation, is of great conſequence. We are ſtill an inviting object to one European power at leaſt, and, if we cannot defend ourſelves, the temptation may become too alluring to be reſiſted.—I do not mean, that, with an efficient government, we ſhould mix with the commotions of Europe. No, ſir, we are happily removed from them, and are not obliged to throw ourſelves into the ſcale with any. This ſyſtem will not hurry us into war, it is calculated to guard againſt it. It will not be in the power of a ſingle man, or a ſingle body of men, to involve us in ſuch diſtreſs, for the important power of declaring war, is veſted in the legiſlature at large;—this declaration muſt be made with the concurrence of the houſe of repreſentatives; from this circumſtance we may draw a certain concluſion, that nothing but our national intereſt can draw us into a war. I cannot forbear, on this occaſion, the pleaſure of mentioning to you the ſentiments of the great and benevolent man whoſe works I have already quoted on another ſubject; Mr. Neckar, has adreſſed this country, in language important and applicable in the ſtricteſt degree to its ſituation and to the preſent ſubject. Speaking of war, and the great caution that all nations ought to uſe in order to avoid its calamities.—"AND you, riſing nation, ſays he, whom generous efforts have freed from the yoke of Europe! let the univerſe be ſtruck with ſtill greater reverence at the ſight of the privileges you have acquired, by ſeeing you continually employed for the public felicity: do not offer it as a ſacrifice at the unſettled ſhrine of political ideas, and of the deceitful combinations of warlike ambition; avoid, or at leaſt delay participating in the paſſions of our hemiſphere; make your own advantage of the knowledge which experience alone has given to our old age, and preſerve for a long time, the ſimplicity of childhood: in ſhort, honor human nature, by ſhewing that when left to its own feelings, it is ſtill capable of thoſe virtues that maintain public order, and of that prudence which inſures public tranquillity."

Permit me to offer one conſideration more that ought to induce our acceptance of this ſyſtem. I feel myſelf loſt in the contemplation of its magnitude. By adopting this ſyſtem, we ſhall probably lay a foundation for erecting temples of

liberty, in every part of the earth. It has been thought by many, that on the ſucceſs of the ſtruggle America has made for freedom, will depend the exertions of the brave and enlightened of other nations.—The advantages reſulting from this ſyſtem, will not be confined to the United States, it will draw from Europe, many worthy characters, who pant for the enjoyment of freedom. It will induce princes, in order to preſerve their ſubjects, to reſtore to them a portion of that liberty of which they have for many ages been deprived. It will be ſubſervient to the great deſigns of providence, with regard to this globe; the multiplication of mankind, their improvement in knowledge, and their advancement in happineſs.

MR. M'KEAN.

SIR,

YOU have under your conſideration a matter of very great weight and importance, not only to the preſent generation but to poſterity; for where the rights and liberties of the people are concerned, there certainly it is fit to proceed with the utmoſt caution and regard. You have done ſo hitherto. The power of this convention, being derived from the people of Pennſylvania, by a *poſitive* and *voluntary* grant, cannot be extended farther than what this *poſitive grant* hath conveyed. You have been choſen by the people, for the ſole purpoſe of "aſſenting to and ratifying the conſtitution, propoſed for the future government of the United States, with reſpect to their general and common concerns," or of rejecting it. It is a ſacred truſt; and, as on the one hand, you ought to weigh well the innovations it will create in the governments of the individual ſtates, and the dangers which may ariſe by its adoption; ſo upon the other hand, you ought fully to conſider the benefits it may promiſe, and the conſequences of a rejection of it. You have hitherto acted ſtrictly conformably to your delegated power; you have agreed, that a ſingle queſtion can come before you; and it has been accordingly moved, that you reſolve, "to aſſent to and ratify this conſtitution." Three weeks have been ſpent in hearing the objections that have been made againſt it, and it is now time to determine, whether they are of ſuch a nature as to overbalance any benefits or advantages that may be derived to the ſtate of Pennſylvania by your accepting it.

Sir, I have as yet taken up but little of your time; notwithſtanding this, I will endeavour to contract what occurs to me on the ſubject: And in what I have to offer, I ſhall obſerve this method; I will firſt conſider the arguments that have been uſed againſt this conſtitution, and then give my reaſons, why I am for the motion.

The arguments againſt the conſtitution are, I think, chiefly theſe.

Firſt. That the elections of repreſentatives and ſenators are not frequent enough to enſure reſponſibility to their conſtituents.

Second. That one repreſentative for thirty thouſand perſons is too few.

Third. The ſenators have a ſhare in the appointment of certain officers, and are to be the judges on the impeachment of ſuch officers. This is blending the executive with the legiſlative and judicial department, and is likely to ſcreen the offenders impeached, becauſe of the concurrence of a majority of the ſenate in their appointment.

Fourth. That the congreſs may by law deprive the electors of a fair choice of their repreſentatives, by fixing improper times, places and modes of election.

Fifth. That the powers of congreſs are too large, particularly in laying internal taxes and exciſes, becauſe they may lay exceſſive taxes, and leave nothing for the ſupport of the ſtate governments.

In raiſing and ſupporting armies, and that the appropriation of money for that uſe, ſhould not be for ſo long a term as two years.

In calling forth the militia on neceſſary occaſions; becauſe they may call them from one end of the continent to the other, and wantonly harraſs them: beſides they may coerce men to act in the militia, whoſe conſciences are againſt bearing arms in any caſe.

In making all laws which ſhall be neceſſary and proper for carrying into execution the foregoing powers, and all other powers veſted by this conſtitution in the government of the United States, or in any department or officer thereof.

And in declaring, that this conſtitution, and the laws of the United States which ſhall be made in purſuance thereof, and all treaties made, or which ſhall be made, under the authority of the United States, ſhall be the ſupreme law of the land.

That migration or importation of ſuch perſons, as any of the ſtates ſhall admit, ſhall not be prohibited prior to 1808, nor a tax or duty impoſed on ſuch importation exceeding ten dollars for each perſon.

Sixth. That the whole of the executive power is not lodged in the preſident alone, ſo that there might be one reſponſible perſon.

That he has the ſole power of pardoning offences againſt the United States, and may therefore pardon traitors, for treaſons committed in conſequence of his own ambitious and wicked projects, or thoſe of the ſenate.

That the vice-preſident is a uſeleſs officer, and being an excutive officer, is to be preſident of the ſenate, and in caſe of a diviſion is to have the caſting voice.

Seventh. The judicial power ſhall be veſted in one ſupreme court. An objection is made, that the *compenſation* for the ſervices of the judges ſhall not be *diminiſhed* during their continuance in office, and this is contraſted with the compenſation to the preſident, which is to be neither *increaſed* nor *diminiſhed* during the period for which he ſhall have been elected: But that of the judges may be increaſed, and the judge may hold other offices of a lucrative nature, and his judgment be thereby warped.

That in all the caſes enumerated, except where the ſupreme court has original juriſdiction, "they ſhall have *appellate* juriſdiction, both as to law and facts, with ſuch exceptions, and under ſuch regulations as the congreſs ſhall make." From hence is inferred that the trial by jury is not ſecured.

That they have juriſdiction between citizens of different ſtates.

Eighth. That there is no bill or declaration of rights in this conſtitution.

Ninth. That this is a *conſolidation* of the ſeveral ſtates, and not a *confederation*.

Tenth. It is an *ariſtocracy*, and was intended to be ſo by the framers of it.

The firſt objection that I heard advanced againſt this conſtitution, I ſay, ſir, was that the elections of repreſentatives and ſenators are not frequent enough to enſure reſponſibility to their conſtituents.

This is a ſubject that moſt men differ about, but there are more conſiderations than that of mere reſponſibility.

By this ſyſtem the houſe of repreſentatives is compoſed of perſons, choſen every ſecond year by the people of the ſeveral ſtates; and the ſenators every ſix years by the legiſlatures: whether the one or the other of theſe periods are of too long duration, is a queſtion to which various anſwers will be given; ſome perſons are of opinion that three years in the one caſe, and ſeven in the other, would be a more eligible term, than that adopted in this conſtitution. In Great-Britain, we find the houſe of commons elected for ſeven years; the houſe of lords is perpetual, and the king never dies. The parliament of Ireland is octennial, in various other parts of the Britiſh dominions, the houſe of repreſentatives are during the royal pleaſure, and have been continued twenty years; this, ſir, is a term undoubtly too long. In a ſingle ſtate, I think annual elections moſt proper, but then there ought to be more branches in the legiſlature than one. An annual legiſlature poſſeſſed of ſupreme power, may be properly termed an annual deſpotiſm—and, like an individual, they are ſubject to caprice, and act as party ſpirit or ſpleen dictates; hence that inſtability to our laws, which is the bane of republican governments. The framers of this conſtitution wiſely divided the legiſlative department, between two houſes ſubject to the qualified negative of the preſident of the United States, tho' this government embraces only enumerated powers. In a ſingle ſtate, annual elections may be proper, the more ſo, when the legiſlative powers extend to all caſes; but in ſuch an extent of country as the United States, and when the powers are circumſcribed, there is not that neceſſity, nor are the objects of the general government of that nature as to be accquired immediately, by every capacity. To combine the various intereſt of thirteen different ſtates, requires more extenſive knowledge than is neceſſary for the legiſlature of any one of them; two years are therefore little enough, for the members of the houſe of repreſentatives to make themſelves fully acquainted with the views, the habits and intereſts of the United Stats. With reſpect to the ſenate, when we conſider the truſt repoſed in them, we cannot heſitate to pronounce, the period aſſigned to them is ſhort enough; they poſſeſs, in common with the houſe of repreſentatives, legiſlative power, with its concurrence they alſo have power to declare war; they are joined with the preſident in concluding treaties; it there-

fore behooves them to be converſant with the politics of the nations of the world, and the diſpoſitions of the ſovereigns, and their miniſters;—this requires much reading and attention. And believe me, the longer a man bends his ſtudy to any particular ſubject, the more likely he is to be maſter of it. Experience and practice will aſſiſt genius and education. I therefore think the time allowed, under this ſyſtem, to both houſes, to be extremely proper. This objection has been made repeatedly, but it can only have weight with thoſe who are not at the pains of thinking on the ſubject. When any thing, ſir, new or great, is done, it is very apt to create a ferment among thoſe out of doors, who as they cannot always enter into the depth and wiſdom of counſels, are too apt to cenſure what they do not underſtand; upon a little reflection and experience, the people often find that to be a ſingular *bleſſing* which at firſt they deemed a *curſe*.

Second. "That one repreſentative for thirty thouſand perſons is too few."

There will be, ſir, ſixty five in the houſe of repreſentatives and twenty ſix in the ſenate, in all ninety one, who, together with the preſident, are to make laws in the ſeveral particular matters intruſted to them, and which are all enumerated and expreſſed. I think the number ſufficient at the preſent, and in three years time, when a cenſus or actual enumeration muſt take place, they will be increaſed, and in leſs than twenty five years they will be more than double. With reſpect to this, different gentlemen in the ſeveral ſtates will differ, and at laſt the opinion of the majority muſt govern.

Third "The ſenators have a ſhare in the appointment of certain officers, and are to be the judges on the impeachment of ſuch officers. This is blending the executive with the legiſlative and judical department, and is likely to ſcreen the offenders impeached, becauſe of the concurrence of a majority of the ſenate in their appointment."

The preſident is to nominate to office, and with the advice and conſent of the ſenate appoint officers, ſo that he is the reſponſible perſon, and when any ſuch impeachment ſhall be tried, it is more than probable, that not one of the ſenate, who concurred in the appointment, will be a ſenator, for the ſeats of a third part are to be vacated every two years, and of all in ſix.

As to the ſenators having a ſhare in the executive power, ſo far as to the appointment of certain officers, I do not

know where this reſtraint on the preſident could be more ſafely lodged. Some may think a privy-counſellor might have been choſen by every ſtate, but this could little mend the matter if any, and it would be a conſiderable additional expence to the people. Nor need the ſenate be under any neceſſity of ſitting conſtantly, as has been alleged, for there is an expreſs proviſion made to enable the preſident to fill up all vacancies that may happen during their receſs; the commiſſions to expire at the end of the next ſeſſions.

As to impeachments, the objection is much ſtronger againſt the ſupreme executive council of Pennſylvania.

The houſe of lords in Great Britain, are judges in the laſt reſort in all civil cauſes, and beſides have the power of trying impeachments.

On the trial of impeachments the ſenators are to be under the ſanction of an oath or affirmation, beſides the other ties upon them to do juſtice; and the bias is more likely to be againſt the officer accuſed, than in his favor, for there are always more perſons diſobliged than the contrary when an office is given away, and the expectants of office are more numerous than the poſſeſſors.

"Fourth. That the congreſs may by law deprive the electors of a fair choice of their repreſentatives, by fixing improper times, places and modes of election."

Every houſe of repreſentatives are of neceſſity to be the judges of the elections, returns and qualifications of its own members. It is therefore their province, as well as duty, to ſee, that they are fairly choſen, and are the legal members; for this purpoſe, it is proper they ſhould have it in their power to provide, that the times, places and manner of election, ſhould be ſuch as to enſure free and fair elections.

Annual *congreſſes* are expreſſly ſecured; they have only a power given to them, to take care, that the *elections* ſhall be at convenient and ſuitable times and places, and conducted in a proper manner; and I cannot diſcover why we may not entruſt theſe particulars to the repreſentatives of the United States, with as much ſafety as to thoſe of the individual ſtates.

In ſome ſtates the electors vote *viva voce*, in others by ballot; they ought to be uniform, and the elections held on the ſame day throughout the United States, to prevent corruption or undue influence. Why are we to ſuppoſe, that congreſs will make a bad uſe of this power, more than the repreſentatives in the ſeveral ſtates?

It is ſaid "that the powers of congreſs, under this conſtitution, are too large, particularly in laying internal taxes and exciſes, becauſe they *may* lay exceſſive taxes, and leave nothing for the ſupport of the ſtate governments." Sir, no doubt but you will diſcover, on conſideration, the neceſſity of extending theſe powers to the government of the union. If they have to borrow money, they are certainly bound in honor and conſcience to pay the intereſt, until they pay the principal, as well to the foreign as to the domeſtic creditor; it therefore becomes our duty to put it in their power to be honeſt. At preſent, ſir, this is not the caſe, as experience has fully ſhewn. Congreſs have ſolicited and required the ſeveral ſtates to make proviſion for theſe purpoſes; has one ſtate paid its quota? I believe not one of them; and what has been the reſult? Foreigners have been compelled to advance money, to enable us to pay the intereſt due them on what they furniſhed to congreſs during the late war. I truſt, we have had experience enough to convince us, that congreſs ought no longer to depend upon the force of requiſition. I heard it urged, that congreſs ought not to be authorized to collect taxes, until a ſtate had refuſed to comply with this requiſition. Let us examine this poſition. The engagements entered into by the general government, render it neceſſary that a certain ſum ſhall be paid in one year; notwithſtanding this, they muſt not have power to collect it until the year expires, and then it is too late. Or is it expected that congreſs would borrow the deficiency? thoſe who lent us in our diſtreſs, have little encouragement to make advances again to our government; but give the power to congreſs to lay ſuch taxes as may be juſt and neceſſary, and public credit will revive; yet, becauſe they have the power to lay taxes and exciſe, does it follow that they *muſt?* For my part, I hope it may not be neceſſary; but if it is, it is much eaſier for the citizens of the United States to contribute their proportion, than for a few to bear the weight of the whole principal and intereſt of the domeſtic debt; and there is perfect ſecurity on this head, becauſe the regulation muſt equally affect every ſtate, and the law muſt originate with the immediate repreſentatives of the people, ſubject to the inveſtigation of the ſtate repreſentatives. But is the abuſe an argument againſt the uſe of power? I think it is not; and, upon the whole, I think this power wiſely and ſecurely lodged in the hands of the general goveru-

ment; though on the firſt view of this work, I was of opinion they might have done without it; but, ſir, on reflection, I am ſatisfied that it is not only proper, but that our political ſalvation may depend upon the exerciſe of it.

The next objection is againſt "the power of raiſing and ſupporting armies, and the appropriation of money for that uſe, ſhould not be for ſo long a term as two years." Is it not neceſſary that the authority ſuperintending the general concerns of the United States, ſhould have the power of raiſing and ſupporting armies? are we, ſir, to ſtand defenceleſs amidſt conflicting nations? Wars are inevitable, but war cannot be declared without the conſent of the immediate repreſentatives of the people; there muſt alſo *originate* the law which appropriates the money for the ſupport of the army, yet they can make no appropriation for a longer term than two years; but does it follow that becauſe they *may* make appropriations for that period, that they *muſt* or even *will* do it? The power of raiſing and ſupporting armies, is not only neceſſary, but is enjoyed by the preſent congreſs, who alſo judge of the expediency or neceſſity of keeping them up. In England there is a ſtanding army, though in words it is engaged but for one year, yet is it not kept conſtantly up? is there a year that parliament refuſes to grant them ſupplies? though this is done annually, it might be done for any longer term. Are not their officers commiſſioned for life? and when *they* exerciſe this power with ſo much prudence, ſhall the repreſentatives of this country be ſuſpected the more, becauſe they are reſtricted to two years?

It is objected that the powers of congreſs are too large, becauſe "they have the power of calling forth the militia on neceſſary occaſions, and may call them from one end of the continent to the other, and wantonly harraſs them; beſides they may coerce men to act in the militia whoſe conſciences are againſt bearing arms in any caſe." It is true, by this ſyſtem, power is given to congreſs to organize, arm, and diſcipline the militia, but every thing elſe is left to the ſtate governments; they are to officer and train them: congreſs have alſo the power of calling them forth, for the purpoſe of executing the laws of the union, ſuppreſſing inſurrections and repelling invaſions; but can it be ſuppoſed they would call them in ſuch caſe from Georgia to New-Hampſhire? Common ſenſe muſt oppoſe the idea.

Another objection was taken from theſe words of the conſtitution: " to make all laws which ſhall be neceſſary and proper for carrying into execution the foregoing powers, and all other powers veſted by this conſtitution in the government of the United States, or in any department, or officer thereof." And in declaring " that this conſtitution, and the laws of the United States which ſhall be made in purſuance thereof, and all treaties made, or which ſhall be made, under the authority of the United States, ſhall be the ſupreme law of the land;" this has at laſt been conceeded, that though it is explicit enough, yet it gives to congreſs no further powers than thoſe already enumerated. Thoſe that firſt ſaid it gave to congreſs the power of ſuperceeding the ſtate governments, cannot perſiſt in it; for no perſon can, with a tolerable face, read the clauſes over, and infer that ſuch may be the conſequence.

Proviſion is made that congreſs ſhall have power to prohibit the importation of ſlaves after the year 1808, but the gentlemen in oppoſition, accuſe this ſyſtem of a crime, becauſe it has not prohibited them at once. I ſuſpect thoſe gentlemen are not well acquainted with the buſineſs of the diplomatic body, or they would know that an agreement might be made, that did not perfectly accord with the will and pleaſure of any one perſon. Inſtead of finding fault with what has been gained, I am happy to ſee a diſpoſition in the United States to do ſo much.

The next objections have been againſt the executive power; it is complained of, " becauſe the whole of the executive power is not lodged in the preſident *alone*, ſo that there might be one reſponſible perſon; he has the *ſole* powers of pardoning offences againſt the United States, and may therefore pardon traitors, for treaſons committed in conſequence of his own ambitious or wicked proſpects, or thoſe of the ſenate."

Obſerve the contradiction, ſir, in theſe two objections; one moment the ſyſtem is blamed for not leaving all executive authority to the preſident *alone*, the next it is cenſured for giving him the *ſole* power to pardon traitors. I am glad to hear theſe objections made, becauſe it forebodes an amendment in that body in which amendment is neceſſary. The preſident of the United States muſt nominate to all offices, before the perſons can be choſen; he here conſents and becomes liable. The executive council of Pennſylvania, ap-

point officers by ballot, which effectually deſtroys reſponſibility. He may pardon offences, and hence it is inferred that he may pardon traitors, for treaſon committed in conſequence of his own ambitious and wicked projects. The executive council of Pennſylvania can do the ſame. But the preſident of the United States may be impeached before the ſenate and puniſhed for his crimes.

"The vice-preſident is an uſeleſs officer;" perhaps the government might be executed without him, but there is a neceſſity of having a perſon to preſide in the ſenate, to continue a full repreſentation of each ſtate in that body. The chancellor of England is a judicial officer, yet he ſits in the houſe of lords.

The next objection is againſt the judicial department. The judicial power ſhall be veſted in one ſupreme court. An objection is made that the compenſation for the ſervices of the judges ſhall not be *diminiſhed* during their continuance in office, and this is contraſted with the compenſation of the preſident, which is to be neither *encreaſed* nor *diminiſhed*, during the period for which he ſhall be elected. But that of the judges may be encreaſed, and the judges may hold other offices of a lucrative nature, and his judgment be thereby warped.

Do gentlemen not ſee the reaſon why this difference is made? do they not ſee that the preſident is appointed but for four years, whilſt the judges may continue for life, if they ſhall ſo long behave themſelves well? In the firſt caſe, little alteration can happen in the value of money, but in the courſe of a man's life, a very great one may take place from the diſcovery of ſilver and gold mines, and the great influx of thoſe metals; in which caſe an encreaſe of ſalary may be requiſite. A ſecurity that their compenſation ſhall not be leſſened, nor they have to look up to every ſeſſion for ſalary, will certainly tend to make thoſe officers more eaſy and independent.

"The judges may hold other offices of a lucrative nature:" this part of the objection reminds me of the ſcheme that was fallen upon in Pennſylvania, to prevent any perſon from taking up large tracts of land: a law was paſſed reſtricting the purchaſer to a tract not exceeding three hundred acres; but all the difference it made, was, that the land was taken up by ſeveral patents, inſtead of one, and the wealthy could procure, if they choſe it, three thouſand acres. What

though the judges could hold no other office, might they not have brothers, children and other relations, whom they might wish to see placed in the offices forbidden to themselves? I see no apprehensions that may be entertained on this account.

That in all cases enumerated, except where the supreme court has original jurisdiction, "they shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the congress shall make." From this is inferred, that the trial by jury is not secured; and an objection is set up to the system, because they have jurisdiction between citizens of different states. Regulations, under this head, are necessary, but the convention would form no one that would have suited each of the United States. It has been a subject of amazement to me, to hear gentlemen contend that the verdict of a jury shall be without revision in all cases. Juries are not infallible because they are twelve in number. When the law is so blended with the fact, as to be almost inseperable, may not the decision of a jury be erroneous? Yet notwithstanding this, trial by jury is the best mode that is known. Appellate jurisdiction, sir, is known in the common law, and causes are removed from inferior courts by writ of error into some court of appeal. It is said that the lord chancellor, in all cases, sends down to the lower courts when he wants to determine a fact, but that opinion is not well-founded, because he determines nineteen out of twenty, without the intervention of any jury. The power to try causes between citizens of different states, was thought by some gentlemen invidious; but I apprehend they must see the necessity of it, from what has been already said by my honorable colleague.

"That there is no bill or declaration of rights in this constitution."

To this I answer, such a thing has not been deemed essential to liberty, excepting in Great-Britain, where there is a king and an house of Lords, quite distinct with respect to power and interest from the rest of the people; or in Poland, the *pacta conventa*, which the king signs before he is crowned, and in six states of the American United States.

Again, because it is unnecessary; for the powers of congress, being derived from the people in the mode pointed out by this constitution, and being therein enumerated and

poſitively granted, can be no other than what this poſitive grant conveys *.

With reſpect to executive officers, they have no manner of authority, any of them, beyond what is, by *poſitive* grant and commiſſion, delegated to them.

" That this is a *conſolidation* of the ſeveral ſtates, and not a *confederation* :"

To this I anſwer, the name is immaterial—the thing unites the ſeveral ſtates, and makes them like one in particular inſtances and for particular purpoſes, which is what is ardently deſired by moſt of the ſenſible men in this country. I care not, whether it is called a conſolidation, confederation, or national government, or by what other name, if it is a good government, and calculated to promote the bleſſings of liberty, tranquillity and happineſs.

" It is an *ariſtocracy*, and was intended to be ſo by the framers of it :"

Here again, ſir, the name is immaterial, if it is a good ſyſtem of government for the general and common concerns of the United States. But after the definition which has already been given of an ariſtocratic government, it becomes unneceſſary to repeat arguments to prove that this ſyſtem does not eſtabliſh an ariſtocracy.

There have been ſome other ſmall objections to, or rather criticiſms on this work, which I reſt aſſured the gentlemen who made them, will, on reflection, excuſe me in omitting to notice them.

Many parts of this conſtitution have been wreſted and tortured, in order to make way for ſhadowy objections, which muſt have been obſerved by every auditor. Some other things were ſaid with acrimony ; they ſeemed to be perſonal ; I heard the ſound, but it was inarticulate. I can compare it to nothing better, than the feeble noiſe occaſioned by the working of ſmall beer.

It holds in argument as well as nature, that *deſtructio unius eſt generatio alterius*—the refutation of an argument begets a proof.

The objections to this conſtitution having been anſwered, and all done away, it remains pure and unhurt, and this alone is a forcible argument of its goodneſs.

Mr. Preſident, I am ſure nothing can prevail with me to give my vote for ratifying this conſtitution, but a conviction

* *Locke on civil government, vol. 2, b. 2, chap.* ii. *ſect.* 141, *and in the* xiiith *chap. ſect.* 152.

from comparing the arguments on both ſides, that the not doing it, is liable to more inconvenience and danger, than the doing it.

I. If you do it, you ſtrengthen the government and people of theſe United States, and will thereby have the wiſdom and aſſiſtance of all the ſtates.

II. You will ſettle, eſtabliſh and firmly perpetuate our independence, by deſtroying the vain hopes of all its enemies, both at home and abroad.

III. You will encourage your allies to join with you; nay to depend, that what hath been ſtipulated or ſhall hereafter be ſtipulated and agreed upon, will be punctually performed, and other nations will be induced to enter into treaties with you.

IV. It will have a tendency to break our parties and diviſions, and by that means, lay a firm and ſolid foundation for the future tranquillity and happineſs of the United States in general, and of this ſtate in particular.

V. It will invigorate your commerce, and encourage ſhipbuilding.

VI. It will have a tendency not only to prevent any other nation from making war upon you, but from offering you any wrong or even inſult.

In ſhort, the advantages that muſt reſult from it, are obviouſly ſo numerous and important, and have been ſo fully and ably pointed out by others, that it appears to be unneceſſary to enlarge on this head.

Upon the whole, ſir, the law has been my ſtudy from my infancy, and my only profeſſion. I have gone through the circle of office, in the legiſlative, executive and judicial departments of government; and from all my ſtudy, obſervation and experience, I muſt declare, that from a full examination and due conſideration of this ſyſtem, it appears to me the *beſt the world has yet ſeen*.

I congratulate you on the fair proſpect of its being adopted, and am happy in the expectation of ſeeing accompliſhed, what has been long my ardent wiſh—that you will hereafter have a SALUTARY PERMANENCY, in *magiſtracy* and STABILITY IN THE LAWS.

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